









THE  
*CALCUTTA REVIEW.*

VOLUME XC.

Jan. 1890.

*No man who hath tasted learning but will confess the many ways of profiting by those who, not contented with stale receipts, are able to manage and set forth new positions to the world: and, were they but as the dust and cinders of our fest, so long as in that notion they may yet serve to polish and brighten the armoury of truth, even for that respect they were not utterly to be cast away.—MILTON.*

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# CALCUTTA REVIEW.

No. CLXXIX.

## CONTENTS.

	PAGE.
ART. I.—THE STUDY OF COMPARATIVE LEGISLATION IN FRANCE ... ..	1
„ II.—THE HISTORY OF ISRAEL ( <i>Independent Section.</i> ) .. ..	11
„ III.—INDIAN LEGISLATION AND LEGISLATIVE COUNCILS ... ..	28
„ IV.—CAMEOS OF INDIAN DISTRICTS :—	
IV.—Karnal, Panjab ... ..	96
„ V.—AN EX-LIEUTENANT-GOVERNOR ON INDIA	125
„ VI.—SOME RELICS OF BEJAPUR:	
The Mahk-i-Maidan, or Lord of the Plain ...	141
„ VII.—ENGLAND'S COMMERCIAL SUPREMACY ...	150
„ VIII.—PASSENGER FARES FOR LONG DISTANCE RAILWAY TRAVELLING ... ..	160
„ IX.—LORD LANDSDOWNE ON EDUCATION ...	170
„ X.—“CARRY DOWN THE MAN A PRESENT.” ...	175
THE QUARTER ... ..	185
SUMMARY OF ANNUAL REPORTS :—	
1.—General Report of the Operations of the Survey of India Department during 1887-88 ...	189
2.—Resolution of the Government of Bengal on Local Self-Government in the District Boards in Bengal during the year 1888-89 ...	192
3.—Report on the External Trade of Bengal with Nepal, Tibet, Sikkim and Bhutan for the year 1888-89 ... ..	195

## SUMMARY OF ANNUAL REPORTS :—

4.—Report on the Administration of Criminal Justice in the Punjab and its Dependencies during the year 1888 ... ..	196
5.—Report on the Excise Administration of the Punjab during the year 1888-89 ... ..	198
6.—Report on Police Administration in the Punjab for the year 1888 ... ..	199
7.—Report on the Land Revenue Administration of the Lower Provinces, for the Official year 1888-89 ... ..	200
8.—Report on the Administration of Civil Justice in the Punjab and its Dependencies during the year 1888 ... ..	201
9.—Report of the Honorary Committee for the Management of the Zoological Gardens for the year 1888-89 ... ..	202
10.—Review of the Management of Estates in the Court of Wards, or under the Talúqdars' Relief Act, in Oudh, for the year ending 30th September 1888 .. ..	203
11.—Annual Report of the Royal Botanic Garden for the year 1888-89 ... ..	<i>ib.</i>
12.—Annual Report on the Police Administration of the Town of Calcutta and its Suburbs for the year 1888 ... ..	204
13.—Report on the Administration of the Salt Department for the year 1888-89 ... ..	205
14.—Administration Report on the Jails of Bengal for the year 1888 ... ..	<i>ib.</i>
15.—Report on the Jails of the Punjab for the year 1888 ... ..	206
16.—Report on the Cawnpore Experimental Station for the Kharif and Rabi seasons, 1888-89 ... ..	207
17.—Report on the Financial Results of the Income Tax Administration in the Lower Provinces for the year 1888-89 ... ..	<i>ib.</i>
18.—Vaccination Charbonneuse ... ..	208
19.—Report on the Financial Results of the Excise Administration in the Lower Provinces for the year 1888-89 ... ..	<i>ib.</i>
20.—Inland Emigration for the year 1888 ... ..	209

SUMMARY OF ANNUAL REPORTS :—

PAGE.

- 21.—Annual Report on the Government Cinchona Plantation and Factory in Bengal for the year 1889-89 ... 209
- 22.—Report on the Legal Affairs of the Bengal Government for the year 1888-89 ... 210
- 23.—Report of the Archæological Survey of India. The Sharqi Architecture of Jaunpur : with notes on Zafarabad, Sahet-Mahet and other places in the N.-W. Provinces and Oudh. By A. Führer, PH. D., of the Archæological Survey, N.-W. Provinces and Oudh. With drawings and architectural descriptions by Ed. W. Smith, Architectural Assistant. Edited by Jas. Burgess, LL.D., C.I.E., Director-General of the Archæological Survey of India. Calcutta—Thacker, Spink & Co. Bombay—Thacker Co., & Ld. London—Trubner & Co. and W. H. Allen & Co. 1889 *ib.*
- 24.—Annual Report on Emigration from the Port of Calcutta to British and Foreign Colonies, 1888 ... *ib.*
- 25.—Note on the Administration of the Registration Department, North-Western Provinces and Oudh, for the year ending 31st March 1889 ... 211
- 26.—Annual Report of the Lunatic Asylums of the Punjab for the year 1888 ... *ib.*
- 27.—Note on the Administration of the Registration Department of the Punjab and its Dependencies for the year 1888-89 ... *ib.*

CRITICAL NOTICES :—

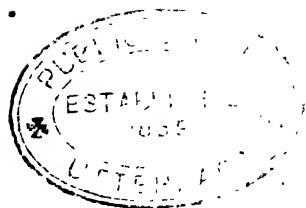
I—GENERAL LITERATURE—

- 1.—Report of the Commissioner of Education for the year 1886-87, Washington : Government Printing Office, 1888 ... i
- 2.—The Indian Church Quarterly Review. Edited by the Rev. A. Saunders Dyer, M. A. The Oxford Mission Press, Calcutta. ... v
- 3.—The National Review. September, October and November 1889, London : W. H. Allen & Co., 13, Waterloo Place, S. W.... vi

## CRITICAL NOTICES:—

## I.—GENERAL LITERATURE—

- 4.—Catalogue of Hindustani printed books in the PAGE.  
Library of the British Museum. By J. F. Blumhardt, teacher of Bengali at the University of Oxford, and of Hindustani, Hindi and Bengali at University College, London. Printed by order of the Trustees of the British Museum. London: Sold by Longmans & Co., 39, Paternoster Row; B. Quaritch, 15, Piccadilly; A. Asher & Co., 13, Belford Street, Covent Garden, and Trubner & Co., 57, Ludgate Hill. 1889 ... .. ix
- 5.—A Theory of Lunar Surfacing by Glaciation. By S. E. Peal, Member of the Liverpool Astronomical Society. With Illustrations. Calcutta: Thacker, Spink and Co., London: W. Thacker & Co., 87, Newgate Street. 1889. x
- 6.—Colburn's United Service Magazine, with which is incorporated, the Army and Navy Magazine. For September, October and November 1889. London: W. H. Allen & Co., 13, Waterloo Place, S. W. ... .. *ib.*
- 7.—The Indian Magazine. September 1889. Issued by the National Indian Association in aid of Social Progress and Education in India. London: Kegan Paul, Trench & Co., Bristol: J. W. Arrowsmith ... .. xi
- 8.—First and Fundamental Truths, being a treatise on Metaphysics. By James McCosh, D.D., L. L. D., Litt. D. Ex-president of Princeton College, Author of "Method of Divine Government," "Laws of Discursive Thought," "Psychology of the Cognitive Powers," "Psychology of the Motive Powers:" "Realistic Philosophy." New York, Charles Scribner's Sons. 1889 ... .. *ib.*
- 9.—Reminiscences of Behar. By an old Planter ... xii
- 10.—Anglo-India ... .. xiii
- ACKNOWLEDGMENTS... .. *ib.*



# THE CALCUTTA REVIEW.

*No. 179.—JANUARY, 1890.*

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## ART. I.—THE STUDY OF COMPARATIVE LEGISLATION IN FRANCE.\*

FOR some years past the study of comparative legislation has been greatly developed in France. Examinations of and discussions on foreign laws are constantly appearing in treatises on the doctrine and the history of law, in special reviews, in legal essays, and in the programmes of open discussions of the Universities of Law, and of the Academy of Moral and Political Sciences. These investigations have all the attraction, all the utility of historical studies. They help us, besides, to rightly appreciate the merits or defects of French law; they throw a light on teaching and doctrine. They serve, moreover, to enlighten the legislator in the recitals of reasons, and the reports of commissions: the laws of different countries are frequently invoked in support of proposals of reform.

These studies have an interest still more practical. Many Frenchmen have their capital engaged in foreign industrial or commercial enterprise. On the other hand there are cases when foreigners can demand the application of the private law of their country of origin, even outside that country, and French tribunals can then be called upon to apply foreign

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\* [We have received this article through Mr. H. A. D. Phillips. It was written by M. Aucoc in French.—ED.]



laws. Works on private international law, which tend to multiply, lead necessarily to the assimilation of a great number of different laws.

It will be of interest to set forth the causes which have produced this movement, the utility of which is self-evident ; to ascertain the elements which furnish a solid basis for those studies, and to point out the conditions on which they should be conducted to be really useful, so as not risk the introduction of error in place of light.

It is, assuredly, an instinct, which is applicable and applied to all human knowledge, to look round us to complete our instruction. But the study of the customs, procedure, and rules of all kinds adopted by surrounding countries, is more or less developed according to the greater or lesser facilities for extending our relations, and consequently, our knowledge. The wonderful revolution in the means of communication which characterizes the nineteenth century, ought to bring with it the development of the study of comparative legislation, in the same way as it has advanced judicial and commercial relations among different nations. It has made them feel the want, and has largely contributed to offer the means of satisfying it. Without doubt, Montesquieu was able to collect the elements of his "*Esprit des Loix*" by his travels in various parts of Europe, and his assiduous study of the works of other travellers and of historians. But he has given a model difficult to imitate from every point of view. In order that the study of the laws of other countries should not be confined to a few choice intellects, placed in exceptional circumstances, and that it may be accomplished with some certainty, the text itself of the laws should be placed at the disposal of those who wish to study them, and a translation for the benefit of those jurists and publicists, still too numerous, who are not acquainted with the principal foreign languages.

These essential conditions, which require considerable resources in men and money, permanent institutions, and continuous contact with foreign countries, have only recently been realized ; and their realisation is due to the Society of Comparative Legislation and the Committee of Foreign Legislation instituted at the Ministry of Justice. The one, a free association, organized by private initiative, and which is the first in point of time ; the other, an official institution, which has powerfully assisted the same work. The one has been working for more than twenty years, the other for twelve. The results of their labours are already sufficiently great to warrant us in giving a summary history of them ; and the services which they have already rendered to knowledge are such as to make us hope for still further benefits in the future.

## LEGISLATION IN FRANCE.

It would be unjust not to mention first the work done in the same direction of ideas by certain worthy juriconsults, who enjoy the merit of pointing out the way. The collection of foreign codes undertaken in 1833 by Mr. Victor Foucher (afterwards a Judge of the Court of Cassation), consisting of ten volumes, the works of M. Anthoine de Saint-Joseph, which compare the laws of many other countries with French civil and commercial codes, ought not to be forgotten. We must also mention the numerous essays on foreign legislation which the "*Revue étrangère et Française de droit*," and the "*Revue de droit Français et étranger*" have published from 1834-1850 with the collaboration of M. M. Fælix and Bergson. These works had called the attention of jurists to the necessity of extending the horizon of their studies. But they had shown the manifold material difficulties which stood in the way, and would soon stop the action of a few isolated workers in the accomplishment of a task so various and so vast.

In 1869 a Society of Foreign Legislation was formed at Paris. From the first it numbered more than 250 members belonging to the bar, the magistracy, the universities of law, the administration, the Conseil d'Etat and the Chambers. Men of all parties met each other there. The founders, who may now be justly proud of their initiative, had the sagacity to provide in their rules, that the Society would not note on any question. By this was clearly indicated the character it was necessary to preserve, namely, that of an institution for research, and for impartial and strictly scientific study. It took care to affirm this by the choice of its presidents, successively taken from the different elements of its personnel. M. Laboulaye, who was particularly pointed out, by the fact of his being professor of Comparative Legislation at the College of France, was President of the foundation. After him, the Society placed at its head M. M. Renouard, Dufaure, Larombière, Paul Gide, Duverger, Barboux and Dareste. We had the honour to succeed M. Dufaure. The present President is M. Ribot, who had from the commencement performed the difficult duties of general secretary with the greatest zeal. This character has largely contributed to favour the development of the Society, to extend and consolidate its distant relations. It reckons to-day more than 1,300 members, among whom are about 350 foreigners.

The work which it proposed to undertake was not organized without some gropings in the dark. At first its object was merely to make known and discuss, at the periodical meetings, the legislative reforms which had taken place in foreign countries, and at the same time to note the laws of those

countries on the questions which formed the subject of Bills before the French Chambers. It was already a task as interesting as it was useful, which could furnish the elements of practical reforms, the necessary materials for which could be quickly and easily collected, thanks to the resources of a well-organized society. There was good reason to persevere. Thus, according to circumstances, and to mention only joint works to which many members have contributed, we have collected a considerable number of essays and reviews on the procedure of the Parliaments of Europe and America, and on the laws relating to divorce, mercantile associations, municipal administration and bankruptcy. There is not a new question of any importance raised in foreign Parliaments that has not given rise to an essay and often to a discussion. The collection of the *Bulletins* of the Society, in which this work is recorded, is already very rich in documents of great interest.

But the ambition of the Society has grown with its success, and the steady increase in its numbers and financial resources, and caused it to undertake in 1871 a work still more useful, which has made a name throughout Europe. We speak of the *Annales de Législation Etrangère*. Every year, since that time, it publishes a large volume which contains, for every country in Europe, for many countries in America, and for the civilised countries of the other parts of the world—their number is constantly increasing—a list of legislative projects, and analyses of Bills actually introduced, the text of those which are passed, or at any rate of the most important, with notes taken from the statements of objects and reasons and from the debates in Parliament. This invaluable collection now forms 15 volumes. Since 1882 it has been completed by an Annual of French Legislation. How has the Society succeeded in organizing such a complicated work, in arranging the information which comes from all parts of the world, in translating Acts written in languages so diverse, in publishing regularly an annual abstract, which requires so many fellow-workers? It is well to note this, because herein is the justification of the confidence which these publications have won.

It was at first intended to group the members who wished to take an active part in the labours of the Society in different sections corresponding to the different branches of law. This combination, particularly useful for theoretical studies, was not suited for work in which researches and translations of documents form a preponderant part. It seemed more practical, and experience has justified the resolution, to group the members in sections corresponding to different countries. At present the following sections have been constituted: the

English language, the languages of the north, the southern and eastern languages, and the French language. It is in these sections, under the direction and control of an experienced president, that the documents sent by foreign correspondents, mostly untranslated, parliamentary works, texts of Bills and Acts and newspaper articles and reviews, are studied, analysed, translated and grouped for the *Annuaire*, and then sent to the General Secretary who collates the work of the different sections, under the authority of the Council of Direction. A work so considerable requires at least a year's preparation. The Society has, moreover, by publishing summary abstracts in its monthly *Bulletin*, taken care for some time past not to make its members wait too long for correct ideas concerning the progress of legislative work in the different countries of Europe.

It is needless to say how interesting are the *Annuaire*s of the Society of Comparative Legislation and the Bulletins which complete them, what abundant instruction they furnish to legislators, jurists, publicists, and all those who are interested in the progress of law and human justice. To see how the principles of all branches of law are understood and applied by different nations, what are the reforms which engage their attention, what are those which have a local interest, and those which can be extended to other countries ; to find out if, in the subjects of legislation which are being overhauled by other countries, we are in advance or behind ; to note that, while some nations make rapid progress in the codification of their laws and in numerous reforms, there are others who are prevented by a barren agitation from accomplishing even the most simple and desirable improvements ; to follow, in practice, the modifications of legislative machinery which seemed calculated, by emptying the Chambers, to favour the passing of elaborate codes, to follow more or less closely the detailed discussions which are carried on in Italy, Spain and England ; nothing is more worthy of attention, nothing is more instructive.

Some months ago, the present President of the Society, M. Ribot, announced in his re-opening discourse, that the Council of Direction had decided on the publication of a general index of the contents of the first fifteen volumes of the *Annuaire*. He set forth the importance and the variety of the problems attempted, if not solved, by the legislators of different countries, and traced the main outlines of the preface which might precede the general table in order to extract the leading ideas, the common tendencies which have presided over the legislative evolution of the last few years. We wish we could reproduce those brilliant pages, which place in a strong

light both the merit of the orator and the interest of the works of the Society of Comparative Legislation. But it will suffice to give a brief analysis of them. The facts speak for themselves.

Parliamentary Government is undergoing a veritable crisis in many countries ; almost all free countries are engaged in altering their electoral laws, and in seeking the means of reconciling universal suffrage with the necessary conditions of all Government, namely a certain stability in the executive and a certain continuity in policy.

There has been considerable innovation, and considerable progress—all innovation is not progress—in the civil and commercial law of neighbouring countries. America and England have solemnly recognised the wife's independence of her husband as regards civil rights. New contrivances have been adopted in other countries to assure, in a more efficacious manner, the transfer of immovable property, and we have imitated them to a certain extent in Tunis. Great efforts have been made in many countries of Europe to bring into uniformity the principles of commercial law, notably in the matter of bills of exchange and maritime law ; laws relating to mercantile associations and bankruptcies have undergone constant alteration, and the enormous extension of railroads has given rise to new questions.

On the other hand there have been radical changes in the criminal law of several countries. A general movement has been set on foot for the development of popular instruction. The principle of obligation has been recognized everywhere, but with noticeable differences, due to the varying character of different nations and to their religious conditions. The conditions of military service have been transformed simultaneously throughout Europe. The struggles between Church and State, peculiar to some countries, afford profitable lessons to others. Lastly, the questions relating to labour, the condition of workmen, their relations with their employers, provident and aid societies, have everywhere assumed the greatest importance. These are, as M Ribot remarked, vital questions which have to be solved without delay, but solved by following the examples of countries where powerful traditions of liberty, and combination by voluntary association, have prevented the conflicts of classes from resulting in open violence, rather than by following those where the State imposes on employers and workmen alike compulsory sacrifices apportioned under its authority.

Such is the variety, such the importance, of the documents which the Society of Comparative Legislation has placed at the disposal of its workers since its foundation. While rejoicing in the success of its work, it has never pretended

that it cannot make further useful progress, and it never loses sight of this object. But the required results attained are already considerable, and are worthy of the attention and gratitude of juriconsults and publicists. We must add that the Society has, moreover, had the merit of giving rise to other works of the same nature, in which special documents are collected: for instance, the *Revue de la Société pour l'étude des questions d'enseignement supérieur*, the *Bulletin de la Société Générale des prisons*, and the notices of foreign legislation inserted in the Bulletins of the Ministries of finance, public works and agriculture.

## II

At the same time, interesting and instructive as the *Annals* and the *Bulletins* of the Society may be, they are far from making known in their entirety the legislation of foreign countries. Taking up with reason what is most urgent, and wisely adapting to its strength the task which it has assigned itself, the Society has only undertaken to give the texts of the laws, starting from the year 1870. And even when it has met, among the laws promulgated in different countries, codes embracing all the rules of one particular branch of law, it has recognised the impossibility of inserting these lengthly documents in an annual publication without sacrificing a part of the general review of legislative progress in the civilized world.

To complete its labours and to furnish to its workers means of more extended action, it had to create a vast library on foreign law, comprising a complete collection of the laws of the different countries of the world in their original text, the parliamentary works which explain them, the stores of jurisprudence which interpret their application, the historical works of law, and the commentaries of the best known jurists of each country. It had, besides, to undertake a collection of translations of foreign codes ancient and modern. The resources of a private society were not sufficient for this task, which has been provided for by the creation of the Committee of Foreign Legislation at the Ministry of Justice, with an annual grant from the public funds.

It was M. Dufaure, whose name we recall with pleasure, one of the first members of the Society and one of its presidents, who founded it by a ministerial decree of the 27th March 1876. He has taken care from the commencement to organize official relations between the Committee and the Ministries of Justice of different countries of Europe; and to ensure a regular exchange of legislative publications. The new institution has been approved of by the Chambers, and endowed with the annual grant proposed by the Government.

The Committee, on which are several members of the Institute, first set to work at its library. In 1879 it had already collected, thanks to the liberality of several foreign Governments and to acquisitions made on the advice of its correspondents, 1,500 works, comprising 5,000 volumes. It then published the catalogue which has been in great demand throughout Europe. Since that time it has not ceased to augment its collection. It is about to increase and emphasize its value by the immediate publication of a new edition\* of the catalogue, in which will figure more than 4,000 works comprising about 18,000 volumes. The first part of the catalogue is devoted to general matter, to the philosophy of law and ancient law; then comes international law, followed by comparative legislation; the last part, the most extensive, comprises the text and special works on the legislation of foreign countries. There are more than 200 of these. All the States of Europe and America are largely represented. The civilized States and Colonies of Asia, Africa, and Oceania have also a place. We have no need to insist on the importance of such a collection. It is open to the public, who have already derived great profit from the riches placed at their disposal. Several Governments of Europe have been struck by the advantages which it gives, and have sought to create a similar institution.

At the same time the Committee has decided, with the approbation of the Ministry of Justice, on the publication of the translations of a certain number of foreign codes which appear to it to have a particular interest, whether from a scientific or a practical point of view. It has come to the conclusion that, to have a lasting utility, the translations should be thoroughly studied and accompanied by introductions and notes, clearly pointing out the principal features of anterior legislation, the preparatory work for new codes, and the character and the objects of amendments made in old laws.

Moreover, although the Society of Comparative Legislation has furnished the committee with excellent assistants, it has proceeded more slowly in the accomplishment of this part of its task. Nevertheless, the publications which it has edited already offer interesting types of legislation on various branches of law. The German code of commerce, with the law on exchange, and several of the new codes promulgated since the establishment of the German Empire; the code of criminal procedure, the code of judicial organization, and the code of civil procedure; two volumes of a collection of the charters and constitutions of the United States of North America, which will be continued; the penal code of

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\* [An article by Mr. H A D. Phillips on this new catalogue appears in this number.—ED.]

Holland and the Hungarian penal code appear in this collection. To this must be added the Austrian code of criminal procedure published with the help of the Ministry of Justice before the creation of the committee. • The English law on bankruptcy will be published before the end of the year. Translations of various codes of Austria, Russia, Italy and Spain and Portugal, and of the various States of America, are either in the press or in course of preparation.

These are the materials accumulated and placed within the reach of all those who have embarked on this new study, impelled by disinterested zeal for science or legislative reform, or by the practical necessities of their profession.

### III.

Let us note, in conclusion, the conditions under which the study of comparative legislation ought to be conducted to render it really useful.

It is not superfluous to insist at the outset on the precautions which should be taken to get a thoroughly exact translation. It has been recently brought to notice, that some serious errors had crept into the French translation of the Federal Constitution of the United States of America, errors, which have been constantly reproduced since the publication of the celebrated work of M. de Tocqueville. Mistakes of this kind may be caused by mere want of attention; but they are more often due to the actual difficulties of the work. To enable one to translate into our language the provisions of foreign laws, one must thoroughly know the provisions and the language of French law, and penetrate thoroughly into the sense of the foreign law, as a whole, and in its details. It is only after profound study that one finds the judicial terms which exactly express ideas often dissimilar to ours. But we must take more precautions still to assure ourselves of the true import of institutions which we wish to compare with ours, before deciding if they are better and deserve imitation. We must seek out the motives which have inspired the foreign legislator, the needs for which he wished to make provision, and the difficulties which sprung from prior legislation, owing to the state of society, or the economical and moral condition of the country.

Before becoming enamoured of the advantages of some detailed measure, we ought to ascertain carefully, whether it does not form a part of a collection of institutions essentially different from our own; for it is seldom that a detached piece of a machine can be fitted on to a machine of a totally different kind. And that is not all. It is not sufficient to say that a law, inspired by motives that appear just and applicable to other countries, has been passed by a foreign legislature. We



must also study how it has worked in practice, and what have been its effects. The French have often been blamed for having too much confidence in their own lights; but it would be equally unwise to go to the opposite extreme of absolute distrust, and see nothing but the good side of foreign institutions. The Legislators of all countries may make mistakes, and their resolutions are very often enough corrected by fresh ones: sometimes, even, practice modifies them in an appreciable manner. In the remarkable studies which they have recently devoted to the Federal Constitution of the United States of America, our colleagues, M. Boutmy and M. le duc de Noailles have shown by what series of deviations the position of President of the Senate and of the House of Representatives have come to differ from that assigned them by the text of the constitution.

We have just now pointed out the incessant alterations undergone by the laws on mercantile associations in neighbouring countries as well as in France for the last thirty years, and which prove, that as yet, the results have by no means satisfied the expectations of their promoters.

At the present moment the French Chambers are discussing a project of law of great importance, which raises questions of great delicacy, regarding the responsibility for accidents to which workmen are exposed during their work. The laws of the Empire of Germany, of Austria, of Switzerland, each differing from the other, have been quoted in reports and parliamentary debates. But alongside with the principles laid down by these different legislatures, it is necessary to place the effects which they have produced. Although the laws of the Empire of Germany are very recent, experience has already shown the absolute inaccuracy of the calculations presented to the Chambers in support of projects of law, with a view to show the probable expense which would fall on the employers, and indirectly on the State, owing to the system of obligatory insurance; the expense will be much greater than was supposed. Moreover, the costs of administration are enormous, and exceed the total of the indemnities. Herein is food for reflection.

We may confine ourselves to these examples. They sufficiently demonstrate that the study of comparative legislation furnishes us with an invaluable tool, but that like all others, and especially the best, it must be handled with judgment and sagacity.

LÉON AUCOC,  
*Member of the Institute,  
and President of the Committee of Foreign Legislation.*

## ART. II.—THE HISTORY OF ISRAEL.\*.

(Independent Section.)

VOLTAIRE, in his "*Candide*," relates how a Chinese traveller, curious to know the opinion of Europeans on the *casus belli* which led to the famous war, or series of wars, between the Chinese Empire and Cambodia, some six thousand years ago, went into the shop of a Parisian publisher, and asked for a work on Universal History. To his surprise he found its opening chapters devoted almost exclusively to the affairs of the Jews, a nation of whom he had till then never even heard. His surprise was not diminished when on enquiry he learnt that the Jews were an ancient people, numerically weak and politically insignificant, who had occupied a corner of Syria some two thousand years ago, and whose authority or political influence had never extended beyond their own borders. Nevertheless, this insignificant people has, through the medium of religion, attained a vast importance in the eyes of mankind, and exercised a potent influence on the history of nations which are at the present time the most powerful and the most progressive in the world.

Three nations of the ancient world, says M. Renan, have stamped an indelible impress upon our modern civilization. The Greeks have bequeathed to us their legacy of science and art, the Romans their policy and jurisprudence, and the Jews their religion. It is true that the religion of the civilized world is not now the same as the religion of the Jews: it has departed so widely from the spirit of its predecessor that it is now even opposed to it. Judaism, which has developed into Islamism among the Semitic Arabs, has, among the Aryan nations of Europe, been metamorphosed into Christianity. Yet, though this latter originated in a revolt against the grievous burden of the Jewish ceremonial law, it carried with it among its Gentile neophytes the belief in the inspiration of the Jewish scriptures, and the Messianic idea. These beliefs and ideas had a considerable influence in moulding the religious, and, therefore, the political history of Christendom during the first ten centuries of the Christian era, and again at the time of the Reformation. This latter movement, which has proved such an abundant gain for the cause of truth and progress, was chiefly brought about

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\* "History of the People of Israel from the reign of David up to the capture of Samaria": from the French of Ernest Renan: Second Division: London: Chapman and Hall, Limited, 1889.

by the translation and circulation of the Jewish scriptures recognised by the Christian Church among the people of Europe, and their consequent adoption as the guides of faith and conscience in supersession of the decrees of Councils and the canons of the Church. The major part of these scriptures were contained in the so-called Old Testament, consisting of the national literature of the Jewish nation, and written in the Hebrew language. This Hebrew literature exercised a powerful influence on the nations which succeeded in carrying out the Reformation, and has left its traces in their political and social systems even to our own day. Scotch and English Sabbatarianism is a familiar instance.

It has so long been the custom for Christians to regard these scriptures as one book, that it is now difficult to realise that they really comprise distinct series of different books, by many authors, treating of widely differing subjects. But they are only commonly known to European nations by the translations of them made at the time of the Reformation, and these translations have given the separate books an identical style and expression which they do not in reality possess. We might as well bind up the poems of Shakespeare and Chaucer with the chronicles of Hall and Holinshed and the works of Bacon and call the compilation one book. The Jews themselves do not consider the Old Testament to form one book, and assign a different value and authority to the separate books or series of books comprised in it, rating the Law (Tora or Tavrát), the Psalms (Zabur), and the Prophets (Sahífá-i-Anbiyá), above the historical and narrative books; and the Musalmáns observe a similar distinction, classing the Pentateuch and the Psalms with the Gospels and the Koran, while they look upon the books of the Prophets and the Epistles of the Apostles in the same light as Christians regard the Jewish books of the Apocrypha. The Old Testament simply comprises all the literature of the people of Israel that has survived down to the time when Asia became so permeated with the Grecian civilization that the Greek language superseded Hebrew in common use. The earliest series is that of the five books of the Pentateuch which, commencing with the creation of the world and the origin of the nation of Israel, carries its history down to the death of its leader, Moses, to whom the Divine Law was delivered. The historical books of Joshua, Judges, Samuel, Kings, Chronicles, Ezra and Nehemiah carry on the national history from the first settlement of the Israelites in Canaan till their re-establishment there by the Kings or Emperors of Persia: to them may be added the books which contain the stories of Ruth, Esther, &c., though these can hardly be regarded in the light of actual history. The

poetical and proverbial books form a class by themselves, presenting the usual vague features of ancient oriental compositions of the kind: and the fourth division comprises the books of the Prophets, for the most part declamations of the wrath of God against the sins and shortcomings of the people and their rulers, and threats of the divine vengeance—sometimes directed against Israel itself, often against neighbouring nations, together with predictions of final triumph for Israel and Judah, and of the discomfiture of their enemies. These prophecies contain little actual historical fact, though much information may be, and has been, gleaned from the interesting allusions scattered through them as to the state of the surrounding nations, as well as to the internal affairs of the people of Israel; but the series of the historical books from Joshua to Nehemiah contain an almost unbroken narrative of the political history and wars of the Israelites during a period of nearly one thousand years, from the first appearance of the wandering nation on the frontiers of Canaan, to the re-building of their temple under the auspices of the protecting Persian Government. When we reflect that this long and authentic narrative ends at the time, or about the time, when Tarquinius Superbus was dethroned at Rome, and the Pisistratidæ were driven from Athens—that is, at the very time when the history of Rome and Greece, in any trustworthy sense of the word, may be said to begin—we may form some idea of the value and importance of these records, and may cease to wonder with Voltaire's celestial, at the place and space awarded to Jewish annals in a Universal History of the ancient world.

The second division of M. Renan's work, contained in the volume before us, treats of the kingdom of Israel and Judah from the accession of King David to the capture of Samaria by the Assyrians and the captivity of the ten tribes. His first volume dealt with the story of the Patriarchs, the captivity of Israel in Egypt, the flight from that country, and the conquest and colonization of the Promised Land. Before proceeding to a more particular review of the contents of the present volume, we may as well give a summary of the author's views on the earlier narrative. M. Renan aspires to perform for Jewish history the same office that Niebuhr performed for Roman history: to crystallise the truth and to set it free from the mass of legend and fable enveloping it: to discriminate between the additions caused by simple exaggeration, and those dictated by wilful misrepresentation: in short, to apply to the sacred history of the nation of Israel the same principles of rational explanation and scholarly criticism which have been so successfully applied to the histories of other nations

of antiquity. When we read our Livy, we peruse the account of Hannibal's battle with the Romans at the lake Trasimene, and believe it implicitly, but when on the next page we learn that upon a certain day in the grass-market at Rome, an ox spake with a human voice, we pass over the statement with a smile. Our critical faculty enables us to perceive that Livy may be safely trusted in his description of actual events, and that his credulity in the matter of omens and portents is only the common habit of his age. So, from reflection and experience, the critic learns to separate the truth of ancient legends from the embellishments which the credulity and fancy of their reciters and auditors heaped upon them in an age destitute of the art of writing. M. Renan infers from internal evidence that writing was unknown to the Israelites until the time of Samuel. He holds that all the stories contained in the book of Genesis were myths which grew up by degrees among the Beni-Israel, and were naturally incorporated with their history when they wished to trace this back to the beginning of the world. According to his hypothesis, the Semitic tribe of the Beni-Israel probably migrated from the banks of the Euphrates (Ur of the Chaldees to Palestine, and from thence passed into Egypt during the period that a kindred Semitic race bore sway in the valley of the Nile: the race known in Egyptian annals as the Hyksos or shepherd kings. After the overthrow of the shepherd dynasty, the Beni-Israel were reduced to slavery by the Egyptians, or at all events oppressed and ill used by them, till they were driven to migrate again to their former seats. Deterred from the direct route, by the formidable power of the Philistines which barred their path, they made a long detour through the Arabian desert and entered their promised land on its eastern frontier, falling with merciless ferocity upon their kindred tribes who had, during the long absence of the new-comers in the land of Goshen, adopted a settled and partly civilized life, as the Israelites themselves afterwards did in the same country. In spite of the genealogy of the tenth chapter of Genesis, M. Renan asserts that the Canaanites of the seven nations or tribes dispossessed by the Israelites as well as the Phœnicians were of Semitic race, of the same race as their ruthless conquerors; and that this is proved by their nomenclature, and by the gradual absorption of their remnants into the Israelitish nation. It has long been admitted that the Phœnicians of Tyre and Sidon were Semites, and the title borne by the magistrates of their Carthaginian colony was Suffetes, probably the same term as the Hebrew Sofet used to denote the Judges of Israel during the theocracy. But whoever the Canaanites were, it would appear from their dwelling in fenced cities, and being in

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VOL 90  
PT 115

THE HISTORY OF ISRAEL.

possession of chariots and horses, that they had already attained to some kind of civilised state, when their further development was arrested, and their national existence utterly destroyed by the inroad of the fanatical warriors of the desert who followed the guidance of Jehovah. The land was parcelled out among the victorious tribes ; but a considerable number of the vanquished nations continued to exist here and there, as tributaries or as small independent communities, in strong natural positions, such as that of the Jebusites at Millo, or where the open plains prevented the Israelites from attacking them to advantage : for it is observable that the armies of Moses and Joshua were composed entirely of infantry, and they chose hilly countries by preference as the scene of their operations. Hence we have that naïve passage of the Hebrew chronicle in the Book of Judges, Chap. I., v. 19 : " And the Lord was with Judah, and he drove out the inhabitants of the mountain ; but he could not drive out the inhabitants of the valley, because they had chariots of iron."

So in First Kings, Chap. XX, the Syrian officers say to their King Benhadad that the gods of the Israelites are gods of the hills, " therefore they were stronger than we : but let us fight against them in the plain, and surely we shall be stronger than they." And David in his lament over the death of Saul and Jonathan, bewails their death upon " the high places," the slaughter of Israel upon its friendly heights. But as the power of the Israelites grew, and their tribal republic became gradually consolidated into a kingdom, these remnants of the Canaanites disappear from history, probably absorbed into the nations of their conquerors and masters. We hear no more of them after the reign of Solomon. From being a wandering tribe, the Beni-Israel now became a nation, settled in a territory of its own. Its political constitution was that of a tribal republic : a confederation of the twelve tribes which composed the nation. The sacred Ark of the Covenant, under the charge of the priesthood, formed a central rallying point for the whole nation, but there was no settled Government or appointed head ; the people believed themselves to be governed directly by God, whose will was discovered and His intentions divined by the consulting of oracles, very much as was the case among the Pagan nations at the time. The instruments of these oracles were the Urim and Thummim and also Teraphim (Tarafain ?) and the nature of them has not been clearly determined.

As a matter of fact the Government of the confederacy was assumed by the bravest and cleverest of the leaders whom success over the national enemies had glorified in the eyes of the people : and the precarious position of Sofet or judge was held in turn by a woman like Deborah the prophetess, a

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soldier of fortune like the usurper Abimelech, and a righteous seer like the priest Samuel. Many of these had only local authority, and their pretensions were opposed by other tribes, as in the case of Jephthah in Gilead.

Judging from the accounts of the Israelite scribe, and even allowing for the exaggeration natural to the stories of all heroic times, the four hundred years of the theocracy seem to have been one continual scene of anarchy and bloodshed.

The retort made by the philosopher of M. Renan's school to the French Abbé was not without justice ; when the latter was declaiming against the Republican form of Government. " Alas " said he " how inadequate is mere human wisdom to devise a satisfactory system of governing mankind ! " " And the theocracy " retorted the philosopher " was it such a brilliant success ? History hardly records a more melancholy series of crimes and disasters than is presented by the annals of the Hebrew people in the Book of Judges. "

Jehovah, the god who thus ruled them, was at that epoch by no means the universal and only lord of creation, as he became in later times. He was the national god, as Chemosh was the god of Moab, Baal the god of Sidon, &c. A belief in Jehovah by no means precluded a belief in the existence of other gods. Thus Jephthah says to the king of the Ammonites—"Will thou not possess that which Chemosh thy god giveth thee to possess ? So whomsoever the Lord our God will drive out before us, them will we possess." Jehovah was spoken of by his own worshippers as " a great God above all gods. " In the earliest writings of the Jews, God is often spoken of in the plural : Elohim. The Christians explained this plural expression as a reference to the persons of the Trinity : but the ancient Israelites were certainly profoundly ignorant of any such dogma, of which there is not a trace anywhere in the Old Testament except the plurality of gods referred to which arose from far different causes. The Semitic races, like all the other races by whom the world was peopled in those early times, believed in a plurality of deities : probably the Arabs at the time of the mission of Muhammad held still very much the same belief as the early patriarchs. The Beni-Israel claimed to have become acquainted with their god by his name Jehovah at the time of their departure from Egypt. He revealed their law to them from Mount Sinai or Horeb which seems to have been regarded as his especial residence, as Mount Olympus was that of the Grecian Jupiter. He is accompanied by thunder and lightning like that deity, and he delights in burnt offerings and sacrifices like all the other gods of the time, and like many of our gods in India at the present day. But he has two attributes which seem peculiar to himself. He is a

jealous God, and will not admit of any partner in his worship. Nor does He allow any images of Himself. His presence (Sakinat) was supposed to brood over the Ark between the Cherubim, and He had a corporal presence, for he allowed himself to be seen on one occasion by Moses : but he refused to allow himself to be un-idealized, and this fact had doubtless much to say to the subsequent exaltation of the idea of God among the Israelites, and to His recognition as the supreme creator of heaven and earth. M. Renan points out many curious instances of the local character of worship in these primitive times. One superstition was, that a god could only be worshipped on his own soil : hence Naaman takes two mule loads of earth away from the land of Israel that he may worship Jehovah at Damascus. And he even obtains permission from the prophet of the most jealous of gods to occasionally worship in the house of Rimmon the god of the Syrians.

The Beni-Israel occupied the land of Canaan for about five hundred years before the confederation of tribes developed into a kingdom. During all this time the nation must have been growing, consolidating, absorbing the conquered Canaanites, and probably gradually extending its own borders ; for the strength which enabled it to expand into a compact and powerful kingdom under David and Solomon must have been gradually acquired. However charming the ideal of a theocracy may appear to the adherents of Popes and Khalifas, the children of Israel seem to have become dissatisfied with it after a lengthened trial, and they determined on the election of a king, not without opposition from Nabi Sámwíl (the prophet Samuel), who represented the opposition of the old conservative party of the nation to any centralisation of the national power. This conservative party was always very strong among the Israelites, for its feelings and aspirations thoroughly harmonised with the genius of the Semitic race : it had its best representatives among the prophets, whose ideal golden age was the age of the patriarchs, the nomad dwellers in tents, whose wealth was in their flocks and herds, and who were careless of the luxuries and untainted by the vices of oriental civilization. They were revolted by the wealth and luxury of Egypt, of Babylon and of Tyre, as a Bedouin Arab or Wahabi fanatic of the present day is revolted by the effeminacy and vice of Turkish cities. They hated trade, usury, soft raiment, horses and chariots. They detested progress of any kind ; and though they were hurried along on its stream in spite of themselves, they succeeded in impressing on the nation that stamp of election and isolation, which, while it contributed so much to its glory, proved an effectual bar to its material prosperity.

The determination of the people of Israel to change their



confederation of tribes into a kingdom was probably caused by the necessity of providing efficient protection against the organised attacks of their most dangerous and most hateful neighbours, the Philistines, who dwelt in five strong cities on the south eastern sea coast of Palestine. The Israelites were no seafarers. They did not even occupy the sea coast of their country. They dwelt in the hills and valleys, and by degrees extended themselves into the plains; but the sea coast was in the possession of two powers with whom they were unable to cope—the Tyrians in the north and the Philistines in the south. With the former they appear to have scarcely come in contact, and generally to have had friendly relations with them; but the Tyrians were themselves a Semitic people. The Philistines, on the other hand, were probably Aryans, very possibly Pelasgians from Crete. In the ethnology of Genesis the Philistines are set down as Hamites, Misraim begetting "Pathrusim and Casluhim (out of whom came Philistim) and Caphtorim." Gen. X, v. 14. Of Casluhim we never hear again, but Caphtorim is several times mentioned in connection with the Philistines, and the prophet Jeremiah speaks of 'the isle of Caphtor;' perhaps Kupros, Cyprus.

Elsewhere we read of the Cherethites or Cherethim as forming part of the Philistines, and M. Renan plausibly suggests that Chereth may be identical with Crete, which had already become famous under Minos. He thinks that the Philistines were "a people of Carian or Cretan origin, very analogous to the Pelasgi, and having certain points in common with the forces which besieged Troy." They were called "uncircumcised" by the Israelites, a term of reproach never applied to the Egyptians, Canaanites, or any other oriental nation. From the history of their exploits, they seem to have been superior to the other enemies of the Israelites, and to the Israelites themselves in military skill and discipline; and their use of archers in battle would afford another proof of the likelihood of their Cretan derivation, for the Cretans were famous archers. Goliath, the Philistine champion, wears the brazen greaves, which were a familiar article of the Greek military equipment, and which are never again mentioned in the Old Testament. The Philistines worship a maritime god; and M. Renan suggests that the name of Achish, the Philistine king or lord of Gath, sounds like a Greek word. On the other hand the assertion in Genesis that the Philistines were of Hamitic origin counts for little: the names of the ancestors of the Philistines and Greeks, Philistim and Javan, have apparently been merely invented by the Hebrew chronicler as an explanation of the names of these nations. The word Javan or Iawan was the Hebrew rendering of the word Ionian, known to them principally through the

Grecian colonists in Asia Minor. Iawan was then personified as a son of Japhet the father of the Aryan races. The Hebrew chronicler perhaps may have attributed to the Semitic Canaanites and the Aryan Philistines an Hamitic origin, on account of the enmity borne by his people to these two nations; or he may have erred simply through ignorance or carelessness. Oriental writers are not very safe guides in matters either of history or ethnology. The invention of persons and events to fill up awkward gaps in chronology has been freely practised by Arabic and Persian historians. The total omission of the Mongolian race from the ethnological table of Genesis would be sufficient evidence of its untrustworthy nature. In it, Sidon is also made a son of Canaan, though it is indisputable that the Sidonians were of Semitic blood, and, as we have before said, probably the Canaanites also.

Their oppression by the Philistines seems to have made the Israelites feel their own want of centralization and organization very keenly, and determined them to elect a king who might lead them in battle: and we read that "there was sore war against the Philistines all the days of Saul," and he was at last defeated and killed by them. David took refuge from Saul among the Philistines, and appears to have profited by their warlike skill, for when he ascends the throne of Israel we find in his service bands of "Cherethites and Pelethites" which M. Renan translates as Cretans and Philistines. In addition to these, David had a band of six hundred Gittites, or men of Gath in his service, commanded by Ittai the Gittite. "The primitive Aryan soldier," says M. Renan, "equalled the Hebrew or Arab Semite in valour, he surpassed him in fidelity, and he was essential for the solid foundation of any rule."

David immediately after his accession to the throne was engaged in war with the Philistines, and gained some advantages over them. For the rest of his reign we hear no more of enmity or hostilities between the Israelites and Philistines: yet it does not appear from the sacred narrative that David ever subdued them, that he ever took one of their cities, or that he even carried the war into their country. Probably some composition was come to equally satisfactory to both nations: the employment of Philistines as soldiers by David and his successors may have proved a bond of sympathy. At all events, after this time the Philistines, while still maintaining their separate existence in their five military cities, and occasionally proving disagreeable neighbours, cease to be a permanent danger for Israel. They appear again and again in Jewish history as late as the reign of Hezekiah. Their independence was, along with that of their old enemies the Israelites, finally swallowed up in the growth of the Assyrian and Persian empires.

M. Renan believes that the reign of David forms the epoch where the traditional history of the Israelitish people ends and their real history begins. There are many passages in the life of David which appear to have been written by eye-witnesses of the facts. In the whole remarkable story of Absalom there is not a single miraculous occurrence. David was no doubt a most remarkable man for his time, and the greatest that his nation had yet produced : a brave soldier, and not only brave but clever : and a politic ruler. He identified his own interests with that of the national religion, and adroitly managed the priests, instead of being managed by them. In Israel and Judah, as in most other primitive countries, the priests were the literati, the *ulema*, and the national history comes down to us through their medium. We may therefore expect to find the monarchs who favoured and protected the priestly caste spoken well of, while those who, on the other hand, resisted their pretensions are handed down to posterity as wicked tyrants. Saul was probably a nobler character than David : but he had the disadvantage of supplanting the family of the prophet Samuel in the temporal power. And though a brave warrior, he was not a wise or politic man. David was, on the contrary, as crafty as he was bold. He knew how to condone even such a sin as eating the holy shew-bread, which would have counted enough to ruin any one who was less pronounced a favourite of Jehovah. He was, we are told, a "man after God's own heart : " I. Sam., Chap. XIII, v. 14. Yet, in our modern eyes, his moral character was full of blemishes from first to last. Observe, as one out of many instances, the vile motive of his treachery to his brave captain Uriah the Hittite. We shudder when we read of his dying bequests to his son and successor Solomon, whom he instructs to slay the men whom he would not himself slay in his own life-time because he had sworn to spare them ! M. Renan calls these executions or murders "atrocities." But we must take care not to judge an ancient Semitic race and their deeds by a modern and Aryan standard of conduct. Our press writers are now in the habit of speaking of the Amir's executions at Kabul as "atrocities." But they are not atrocities in the eyes of the Afghans, nor would David's delegation of his deferred vengeance appear to them unreasonable or immoral. Arminius Vambéry narrates some similar anecdotes in his History of Bokhara, of the petty rulers of Central Asia going out of their way to keep a vow to the letter, while they break it in the spirit ; conduct which he calls "detestable Musalman hypocrisy," but which appears admirable and worthy of imitation to an oriental scribe. We must bear in mind all through the historical Hebrew writings, that the morality inculcated is the morality of an oriental and Semitic

race : the code of morality which still, with little variation, sways men's minds and actions in Kabul and Bokhara.

"Kissas" or retaliation, slavery, polygamy and concubinage were all lawful to the Israelite. He believed himself to be the chosen favourite of God, Who regarded all other nations with cumity and aversion. Crimes committed against aliens and Gentiles were no crimes, but rather meritorious deeds. The idea of universal brotherhood and of absolute right and wrong were quite unknown to him. It was only later on that the prophets developed the idea of a universal and inflexibly just God, who would bring all nations into one fold.

The fruits of David's work were reaped by Solomon or Sul'mán, his son, who, in point of power and glory, surpassed his father, probably because he profited by his labours. He had a regular government ; an organised army, with chariots and horsemen ; and the whole land of Israel was divided into twelve districts for the purposes of taxation, with the primitive arrangement that each district should furnish the supplies for the king for one month in the year. The Jewish scribes have done their best to magnify the wisdom, the glory, and the power of Solomon, so that he has come to be regarded in the East as a universal emperor : and a wonderful Sulimanic myth has grown up, and has become, with many other stray bits of Biblical and Talmudic lore, part of the sacred book of the Moslem revelation. The Musalman myth of Alexander the Great is another similar and familiar instance of the falsification of history. Solomon was no doubt a king of wonderful wealth and might in the eyes of the Israelites : he possessed ships, sent and received foreign embassies, and was in alliance with the King of Tyre : but after all, his kingdom must have been a very petty one according to our estimation. It has left no trace, at all events, in profane history. Its great achievement was the building of the temple at Jerusalem, which, to a great extent, localised the worship of Israel, and changed, in course of time, the old patriarchal worship of Jehovah to a ceremonial religion with an elaborate ritual and a gradually consolidated dogma. The temple of Jerusalem supplied a rallying point to the nation, which enabled it to re-assemble after its dispersion, and to maintain its separate existence under difficulties that may well make the fact of its preservation appear miraculous. After Solomon's death the schism which had always existed between the two branches of Jacob or Israel's family, broke out with such violence as to become irreparable ; and the ten northern tribes separated themselves from Judah and Benjamin. The establishment of the temple was probably an additional cause of this separation, for the idea of the God of

the patriarchal nomads dwelling in a house like the gods of the more civilised heathen nations around them, was at first repugnant to the feelings of the conservative Israelites. (See the Second book of Samuel, Chapter VII, v. 4 and following.) Tribal jealousy had much to do with the secession also, for in the time of the Judges, the chief centres of religion had been in the land of Ephraim. The breach could not be healed, and the ten northern tribes had to elect a king for themselves. The prestige of David and Solomon retained their dynasty on the throne of Jerusalem as long as the kingdom of Judah lasted; but in the northern kingdom, dynasty succeeded dynasty in the usual fashion of oriental kingdoms. The Royal House of David continued to rule for four centuries and a half: a space of time equalled by but few eastern dynasties, and surpassed by none except the Imperial House of 'Othmán, which has now lasted for six hundred years in a direct line from its founder, and may challenge comparison with the oldest European royal houses, such as those founded by the Capets and the Hapsburgs.

The prophets waged unremitting war against the eclecticism which had apparently always prevailed in Israel from the earliest times, and which was a common feature of all the religions of that epoch. They had grasped the monotheistic idea of worship so peculiar to the Semitic race, and which distinguishes its religious beliefs from all others. No nation of Caucasian race was ever unitarian in religion: the Aryan is a born man-worshipper. If he does not worship deified men, he will worship gods incarnate in the flesh. No Aryan race has ever sincerely embraced orthodox Islamism. The Bosniak and Albanian Musalmans adulterate their faith with saint-worship: and the Aryan Persians have become the heretics of the Muhammadan world, honouring in Ali, the son-in-law of the Prophet, a perfect type of humanity. The Semitic Hebrew and Arab stand alone in their cult of a sterile and sombre monotheism. Inspired by this sublime idea the Hebrew prophetic zealots "continued, during many centuries, to inculcate the same doctrine of a righteous Jehovah, the protector of the right, the defender of the weak, the destroyer of the rich, the enemy of worldly civilization, the friend of patriarchal simplicity. The prophets were indefatigable propagators of this idea." Hence we have the twelve Hebrew books of the prophets, the *Sahifa-i-Anbiyá*, which alone have survived out of all the lucubrations of the seers of Israel for so many centuries, and which doubtless contain the choicest of their utterances.

The Messianic idea, which afterwards took such a firm hold upon the Jewish nation, is gradually developed in the

predictions of the prophets. As the Israelites gradually admitted the idea of one universal God of creation, whose chosen people they still were, their subjugation and oppression at the hands of the heathen became yet more inexplicable to them. As long as they were triumphant and prosperous their faith received no shock, but at length it became apparent to them that their national existence was seriously threatened, and that the heathen had gained a position of incontestable superiority. In short, the promises of God to them were not fulfilled. Yet they must be true! Hence the people reconciled their belief with adverse facts by postponing the fulfilment of the promises to a future date. A Messiah would arise who would deliver them from the hand of their enemies, as David had delivered them from the hand of the Philistines, and who would subdue all nations, and inaugurate an era of universal justice, peace and righteousness.

What most puzzled these poor prophets, was not only the triumph of the heathen, but the triumph of evil in the world, of the idolatry and injustice that must be hateful to the pure and just God of their conception. And as they could find no satisfaction in contemplating the present, they had recourse to the future for consolation, as has been the habit of the religious mind in all ages. Later on, when the Jews had during their captivity been saturated with Magian doctrines, we shall find this idea developing itself into the belief in a future state, with a happy heaven for the good, and a lake of fire for the punishment of the wicked. The triumph of God's enemies in this life then becomes intelligible, because compensation for the seeming injustice will be awarded in the next. The Messianic idea attained its logical development in the frantic and hopeless struggle against the overwhelming power of gentile civilization as embodied in the rule of the Romans, when the political existence of the Jewish nation was extinguished for ever. A similar idea, bred of the same religious conditions, is now agitating the Musalman world, and has already found expression in the Mahdist revolt in the Soudan.

It is now obvious to us that the unparalleled misfortunes and calamities of the Jewish nation were chiefly brought upon it by the obstinate conviction of the Israelites that they were the chosen people, and the especial favourites of Providence. It is impossible not to feel deep sympathy with their steadfast faith, with their childlike trust in Jehovah, constantly disappointed, but ever unflinchingly renewed. His enemies triumph over them, profane His Holy of Holies, destroy His Holy City, level His temple with the ground. The victorious Gentile torments the captive Jew with the taunt—"Where is now thy God?" Yet Israel still believes, still trusts on. The blood of

the myriads slain by the legionaries of Titus in the courts of the temple is hardly yet dry on the ruins of Jerusalem, before the few survivors are again defying the might of the Roman empire at the ill-omened bidding of Bar-kaukab. Again defeated, decimated, dispersed, they trust in the unfailing promises still. They have only mistaken, forestalled the time of their fulfilment. How long. Oh Lord, how long ?

But we are outstripping M. Renan who has only accompanied Israel as yet so far as the conquest of Samaria by the Assyrian armies of Shalmaneser, and the dispersal of the ten tribes. M. Renan does not think that this captivity of Israel was at all so general or so complete as is supposed, or as it is stated to have been in II Kings, Chap. XVII. He thinks that only the chief men of the nation would have been carried away by the conquerors. Those who remained either became absorbed in the kingdom of Judah, or merged in the heathen nations around them. There are few now, we imagine, who believe in the existence of the lost ten tribes, though not so very long ago the probability of discovering them was generally debated and speculated on. There is little doubt but that all that remain of them have become incorporated with the Jews as now known. But M. Renan affords us no sufficient reason for preferring his own conjectures to the statements of the Jewish historian. He is an acute thinker and brilliant writer, but his method of criticism is essentially French. He rather reminds us of his famous compatriot, who thought that the circumstance of facts not agreeing with his own theory, was so much the worse for the facts.

Whatever appears to him to have been probable, he likes to assume for certain. It is easy to write history in this fashion, and its facts are in this way pretty certain to agree with the historian's theories. M. Renan's method is the very opposite of the exact and laborious research which never assumes a probability to be a certainty, and never takes a doubtful point for granted, practised by his German predecessors in the same field. He has accepted their conclusion that the books of the Pentateuch have been compiled from two different narratives, one of which is called the Jehovist, and the other the Elohist, from the fact that the word Jehovah is not used in the latter until its revelation to Moses as the name of God. M. Renan asserts that the Jehovist version was compiled in the northern kingdom and the Elohist narrative in Judah, probably by a temple scribe ; but he again gives no sufficient reasons for this assertion. Indeed, his whole treatment of the subject of the Hebrew literature and philology incline us to the inference, that his acquaintance with that ancient

language is neither extensive nor profound. He himself acknowledges the utter uncertainty enveloping the whole matter. Speaking of the Pentateuch he says :—

“How is it that the date of such a work can be so uncertain? How is it that the name of the man who wrote this masterpiece is unknown? The same question is asked of the Homeric poems; of nearly all the great epics of the Gospels, and in fact of all the great works which have been compiled from popular traditions. The compilation of the Gospels was certainly an important event in the history of Christianity, though at the time when these short books appeared they were unnoticed at the centre of Christianity. Books of this kind are of no value to the first generation, which is well acquainted with the original tradition. They acquire immense importance as soon as the direct tradition is lost, and when written accounts are the only evidence of the past. That is why this description of narrative is rarely unique.”

These ancient scriptures afford us the means of tracing the successive developments of the Jewish religion with peculiar distinctness. In the patriarchal ages we have the Elohim, the gods walking on earth and talking with man. We next find the nomad tribes worshipping a local and tribal god who dwells in mountains, and wields the thunder, gives written laws to his followers, and directs the operations of armies. Next we have the one and only God of the universe, who rewards and punishes men according to their works. Evil and good, in this simple theology, come equally from God : it is He who hardens Pharaoh's heart, who instigates David to commit the sin of numbering the people, who sends a lying spirit to entice Ahab to go up to Ramoth-Gilead and fall there. There is no mention of a future state of reward and punishment in the Old Testament : temporal blessings only are predicted for the servants of Jehovah. After the captivity, the Jews adopted the beliefs in a resurrection, in heaven and hell, and in eternal life : and it has been very plausibly suggested that they imbibed these beliefs from the Magian Persians with whom they were tenets of faith. And the Persian Ahriman, or principle of evil, separate from God the author of godness, was also at the same time adopted into their theology, and became the devil or Satan. In the narrative of Genesis the serpent is not a supernatural being, he is only “more subtle than any beast of the field :” and the myth is simply a method of accounting for the antipathy of man to the serpent.

In later times the revolt of the angels became a tradition, and the serpent was then identified with the Devil. In the book of Job, one of the most ancient of the Hebrew Scriptures, Satan appears as one of God's angels : he was, in fact, the angel whom God employed to wreak evil on human beings. This instrument of evil naturally became, in the new theology, the origin of evil and an enemy of God and man : and hence



the legend sprang up of his rebellion, and of his being cast down from heaven to the Asfal-as-Sáfalín, or uttermost depths. These changes which appear so striking and radical to us were really adopted so gradually during many centuries, and were the outcome of so many changes of circumstances, locality, language, and habits of life and thought, that their growth was imperceptible : and the Jews of the Tetrarchy still believe themselves to hold the same faith as Abraham and Moses. The Sadducees, whom they accounted as heretics, were in reality those who adhered most closely to the ancient religion of Shiloh and Carmel.

For the world at the present day Judaism possesses a peculiar interest as the progenitor and prototype of Islamism. Muhammad in his search for truth eagerly adopted a religion ready made to his hand, and so congenial to the Semitic genius. He professed to follow in the footsteps of both Moses and Jesus, but there is no trace in the Koran of the teachings of the Gospels. As far as the legendary and narrative part of his revelation goes, Muhammad seems to have drawn his inspiration from the Jewish Talmud. But he adopted the moral and ceremonial code of the Pentateuch. The Divine Law of Israel became the Divine Law of Islam. Mecca took the place of Jerusalem : the Sanctuary of the Kaaba replaced the temple. The children of Ishmael carried on the mission which had been committed to the children of Isaac. But Muhammad made one important advance upon the principles of Moses. He offered the covenant to the whole world, he admitted all nations and tribes, without distinction, into the ranks of the chosen. Islamism is Judaism, but it is Judaism writ large.

There is a remarkable analogy, too, between the career of the congregation of Israel and of the congregation of Islam ; between the course of historical events that have attended the development and the decay of the two systems. A thousand years after, Joshua had led the host of the Lord to the extermination of the heathen Canaanites, Obeidullah and Kaled brought the monotheistic warriors of the desert into the same land to destroy the "polytheism" (Shirk) of the corrupt Christianity of Byzantium. The glories of the Caliphate afford a parallel to those of the reigns of David and Solomon : the wars of the Crusades recall the memories of the struggles of the unskilful but valiant Israelites against the uncircumcised Philistines. The Afghan Ghazi at Maiwand, the Derwish chanting his psalm of praise to the Most High under the fire of the English square at Abu Klea, believes himself "to be the champion of God against his mortal enemies, as firmly and faithfully as ever did the followers of Barak and Gideon. And in its decay, Islamism brings out more and more strongly the salient features of the

resemblance between the two systems. No one can frequent the society of the Musalman Ulema in any country without recognising in them the Scribes and Pharisees of the last days of Jerusalem. The shameless hypocrisy, the worship of the letter, the neglect of the spirit, the hatred of reform, the fear of the Western civilization that is slowly and surely sapping the foundations of their sand-built house, are all there. With this, there is the fevered expectation of the coming of the Messiah and of the end of all things, which so strongly characterised the last days of the Jewish nation in its own land.

A most complete change has taken place in the national character of the Jews since they were scattered throughout the habitable world by Roman policy, eighteen hundred years ago. From a nation absorbed in pastoral and agricultural pursuits, they become a people devoted entirely to trade and finance. Though usury is forbidden by their law, they become the usurers *par excellence* of the whole world. From other examples of the kind it would almost seem as if there were some natural law developing such instincts in a nation deprived of its political and territorial existence, but still retaining its religious and ethnic identity. The Greeks and Armenians have both developed the same national character as the Jews: the latter to a very great degree: the former in lesser measure, as their severance from their own soil has been more partial. But the Parsis of India present in their history the most striking parallel to the condition of the modern Jews. They have existed as a distinct people without a country and without a polity for twelve hundred years. Like the Jews they have lost their ancient language, and like the Jews they have retained their old religion. They were in their own land a nation of warriors and horsemen: in exile they have become exclusively merchants and traders. It would be difficult to find, in the pages of history, a more striking instance of a similar series of events producing corresponding results.

The future history of the people of Israel is not difficult to forecast. During many centuries, persecution has intensified their national feeling, and the contumely and obloquy with which they have been treated by Christians, has been reciprocated an hundred fold. This state of things is happily no more in civilized countries. In France, where Jews have been admitted to the full rights of citizenship from the time of the Great Revolution one hundred years ago, they are already beginning to be absorbed in the mass of the population. A general indifference to the forms of religion enables them to become Frenchmen without becoming Christians; and the Jew of the Paris Bourse and of the London Stock Exchange is to-day as little of a zealot or a bigot as the most advanced Aryan philosopher could desire.

## ART. III.—INDIAN LEGISLATION AND LEGISLATIVE COUNCILS.

I HAVE, in my essays on “Indian Constitutional Law,” given a brief sketch of Indian Legislation before “the Indian Councils’ Act, 1861,” and also some account of the respective spheres, powers, and functions of the Supreme and of Provincial Legislative Councils. I now propose to discuss, in somewhat more detail, the rules, procedure and manner of legislation, the constitutional position of legislative bodies in India, their relation to the executive, the publicity of legislation, and some kindred matters. The subject-matter may be considered under the following heads :—

### I.—INITIATION OF LEGISLATION.

### II.—RULES FOR THE CONDUCT OF LEGISLATIVE BUSINESS.

1. Meetings of the Council.
2. Introduction, publication and consideration of Bills.
3. Passing of Bills, Publication of Acts, Petitions, &c.

### III.—THE LEGISLATIVE DEPARTMENT OF THE GOVERNMENT OF INDIA—

Respective positions of the Executive and Legislative Departments of the Government of India as regards legislative measures.

### IV.—EXTENT OF INDEPENDENCE OF THE INDIAN LEGISLATIVE COUNCIL.

### V.—EXTENT OF INDEPENDENCE OF LOCAL LEGISLATIVE COUNCILS.

### VI.—POSITION OF OFFICIAL MEMBERS OF LEGISLATIVE COUNCILS.

### VII.—ADDITIONAL MEMBERS OF THE GOVERNOR-GENERAL’S COUNCIL.

Simla *vs.* Calcutta as the seat of the Indian Legislative Council.

### VIII.—DISCUSSION OF BUDGETS.

### IX.—PUBLICITY OF LEGISLATION AND OPPORTUNITIES FOR PUBLIC CRITICISM.

### X.—REAL AND EFFECTUAL REPRESENTATION OF ALL CLASSES.

### XI.—EXECUTIVE LEGISLATION.

## XII.—CONCLUDING REFLECTIONS AND SUGGESTIONS REGARDING THE MULTIPLICATION OF LEGISLATIVE OR QUASI LEGISLATIVE BODIES, AND POSSIBLE EXPANSION OF THE REPRESENTATIVE PRINCIPLE.

### I.—INITIATION OF LEGISLATION.

Apparently any member of the Supreme or of a Provincial Legislative Council may move for leave to introduce a measure subject to the provisos specified in sections 19 and 38 respectively of the "Indian Councils' Act," and of course to the general restrictions contained in the Act. As a matter of fact, measures are seldom or never introduced by non-official members. As regards Local Councils, the Governor in Council, or the Lieutenant-Governor determines whether any particular measure shall be introduced. As to the Supreme Council, when a question involving legislation is submitted to the Government of India, it is referred to the member in charge of the Executive Department to which the subject pertains. If he thinks that legislation is expedient, the matter is brought before the Governor-General in Council. Nearly all the legislation of the Supreme Council is undertaken at the instance of some Local Government; but, of course, any member of Council may initiate a legislative measure dealing with the department under his charge.

In the case of territories which have been brought under the provisions of 33 Victoria, chapter 3, the Local Government submits draft Regulations for their peace and good government to the Governor-General in Council.

The Bills of Local Councils generally emanate from the reports of the District Officers of Government. Legislation is by no means readily undertaken. In many instances the abuse calling for removal, the mischief which demands a remedy, the difficulties which hamper some particular branch of the administration, are allowed to become very acute before the legislative machine is set in motion. Sometimes a Bill is introduced in consequence of the earnest representation of some public body, or some particular section of the community.

### I.—RULES FOR THE CONDUCT OF LEGISLATIVE BUSINESS.

#### 1. *Meetings of the Council.*

The quorum for a meeting of the Supreme Legislative Council is seven, including the President. It is the function of the President to preserve order, and all points of order are decided by him, no discussion thereupon being allowed. Any tendency to undue verbosity or prolixity, or to oratorical action or display, is effectually checked by the admirable rule, that

members must speak *sitting, and not standing* ! The advisability of introducing this rule into Local Legislative Councils is worthy of consideration. In Bengal, members are not allowed to read their speeches, but they may refresh their memory by referring to notes. All members have an opportunity of speaking, and the mover of a motion may speak once by way of reply. Any member may speak at the request and on behalf of another member, who is unable to express himself in English. The question is put by the President, and decided by a majority of votes. Any member may ask for any papers or returns connected with any Bill before the Council, and it is for the President to determine whether they can be given. Members, having occasion to ask questions of other members on any measure then under the consideration of the Council, must ask such questions through the President.

The rules for the Bombay and Madras Councils are similar. The President appoints the times and places of meeting. The quorum for a Local Council is five, consisting of the Governor, or (in his absence) some ordinary Member of Council and four or more members of Council (including, under the term members of Council, additional members). The Supreme Council sits both in Simla and in Calcutta, but enacts its most important business in Calcutta. The Bengal Council generally sits during the period from January to April.

## 2. *Introduction, Publication, and Consideration of Bills.*

Any member wishing to move for leave to introduce a Bill, in accordance with the provisions of sec. 19 of the Indian Councils' Act, must give the Secretary at least three days previous notice of the title and object of the Bill. If such motion be carried, the Bill, with a full statement of objects and reasons shall, if not already prepared, be prepared by the member, or (if he so desire) by the Secretary in consultation with the member. The Bill is then printed, and copies sent to each member. Bills are published in such manner as the Council thinks fit. The member in charge of a Bill must make one or more of the following motions :—

- (a.) That it be referred to a Select Committee, or
- (b.) That it be taken into consideration by the Council at once, or at some future day to be then mentioned,  
or
- (c.) That it be circulated for the purpose of eliciting opinion thereon.

When any such motion is carried, the Bill, together with a statement of its objects and reasons, shall be published in English in the *Gazette of India*. The Bill and statement are also published in such official Gazettes, and in such vernacular

languages (if any) as the Council in each case decides to be necessary for the purpose of giving notice to the communities affected by the Bill.

It may be said, broadly speaking, that Bills of the Government of India come from the Select Committee in the shape in which they are eventually passed. Every section is thoroughly discussed and threshed out in Select Committee. The Council appoints the members of Select Committee, but the Law member is always a member of every Committee. Ordinarily the Select Committee are not allowed to report on a Bill until the expiry of three months from the date of its first publication in the *Gazette of India*. In Bengal the ordinary period is one month. If a Bill is very materially altered in Select Committee, it is generally republished. The Select Committee's Report is circulated to each member of the Council, and is taken into consideration by the Council "as soon as conveniently may be."

Any member may propose an amendment of a Bill, provided he has sent notice of his amendment to the Secretary three days before the amendment. Such notices are printed and circulated to the members. In Bengal votes are taken by voices or by division, but *must* always be taken by division if any member so desires. Any member may move that a Bill, which has been amended by the Council or by a Select Committee, be republished or re-committed, and, if the Council so decide, the President may order the Bill to be republished or re-committed, as the case may be. If no amendment is made when a Bill is taken into consideration by the Council, the Bill may at once be passed. The President has a general power to suspend any rule.

There seems to be no rule in India as to the length of time for which a member may speak. One hour is the limit in the United States. Other countries do not appear to have any rule, except that the President may stop a speech if the member speaking is twice warned for wandering from the subject. There are no rules as to the *clôture* in the rules of business ; but when a motion that a Bill be taken into consideration has been carried, the President may submit the Bill, or any part of the Bill, to the Council, section by section. When this procedure is adopted, the President calls each section separately, and when the amendments relating to it have been dealt with, shall put the question "that this section, or (as the case may be) this section as amended, stand part of the Bill." The *clôture* exists in all continental legislatures. In Italy the demand for it requires the support of ten members, in Germany of 30 members. The President at once puts the question "that the debate be closed." In some countries, France for instance, one member

is allowed to speak against the closing of the debate. The opinion of a distinguished French statesman, M. Guizot, given before a Committee of the House of Commons on public business in 1848, may not be out of place here: "I think," said M. Guizot, "that in our Chamber it was an indispensable power, and I think it has not been used unjustly and improperly generally; calling to mind what has passed of late years, I do not recollect any serious and honest complaint of the *clôture*. In the French Chambers, as they have been during the last 34 years" (he was speaking in July 1848), "no member can imagine that the debates would have been properly conducted without the power of pronouncing the *clôture*." In another part of his evidence, M. Guizot stated: "before the introduction of the *clôture* in 1814, the debates were protracted indefinitely, and not only were they protracted, but at the end, when the majority wished to put an end to the debate, and the minority would not, the debate became very violent; and out of the house, among the public, it was a source of ridicule."

The rules in Madras and Bombay are much the same. In Bombay there are three readings of a Bill, but a reading means that only the title of the Bill is read, unless the Council requires that the Bill shall be more fully read.

The India Councils' Act contains no express provision regarding publicity of debate. The debates in Hansard show that there was a good deal of discussion on this point. Mr. W. Forster asked to what extent publicity was to be allowed, and Sir Charles Wood replied that the matter would be left to the discretion of the Governor-General or the Governor of the Presidency. Lord Canning, in a despatch of the 15th January 1861, had recommended that the proceedings should be conducted as in a committee or commission, and not in the form of a set Parliamentary debate, and that they should be reported under the control of the Governor-General, and only published after all the proceedings were over. Mr. Bright thought it right that legislative assemblies should have the right to close their doors on special occasions, but that Lord Canning's suggestions should be followed in a more liberal spirit. Sir Charles Wood said it would be much safer to leave it to the Governor-General to decide to what extent publicity should be given to the debates; if the practice in England were modified, it would only be so far as to ensure an authentic report of the speeches. Lord Granville spoke to the same effect in the House of Lords.

### 3.—*Passing of Bills, Publication of Acts, Petitions, &c.*

When a Bill is passed by the Supreme Council, a copy thereof is signed by the President, and when the Governor-General

has declared his assent thereto, such copy is signed by the Governor-General, and the Bill is published as soon as possible in the Official Gazette as an Act of the Governor-General in Council. Such publication is made in the *Gazette of India*, and the Official Gazettes of the Local Governments in English, and in the principal vernacular languages spoken in territories subject to such Governments respectively : provided that, if the Act does not apply to the whole of British India, it is published only in the *Gazette of India*, and in the Gazettes of the Local Governments to whose territories it applies.

After the passing \* of a Bill by a Local Council, the Governor (or Lieutenant-Governor) communicates his assent or dissent to the Council by certificate in writing on the face of the Bill, and the Bill with such certificate is lodged in the records of the Council. The Governor shall transmit forthwith to the Governor-General an authentic copy of every law or regulation to which he shall have declared his assent ; and no such law or regulation shall have validity until the Governor-General shall have assented thereto, and such assent shall have been signified by him to, and published by, the Governor in the Official Gazette. The fact of assent or dissent of the Governor-General (as also the disallowance of any law by Her Majesty) is communicated to the Council by the Governor personally or by letter, and is recorded in the journal of the Council. It is not competent to any member of the Council to make any motion upon, or otherwise bring under the consideration of the Council, the exercise by Her Majesty, the Governor, or the Governor-General, of their prerogative of disallowing a Bill by withholding their assent from it. Immediately after the Governor-General's assent, the Act is published in the Local Gazette.

The Council Chamber is not open to the public, but strangers may be admitted to it on the order of the President. The President, on the motion of any member, or otherwise, may direct at any time during a sitting of the Council, that strangers withdraw.

Communications on matters connected with any Bill before the Supreme Council may be addressed, either in the form of a petition to the Governor-General in Council, or in a letter to the Secretary, and must in either case be sent to the Secretary. Ordinarily, such communications will not be answered. Except in the case of the High Court at Fort William, such communications from courts, officials, or public bodies shall ordinarily be sent through the Local Government. The Secretary

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\* "After the passing of a Bill, the Secretary shall revise and complete the marginal notes thereof, and shall submit it to the Lieutenant-Governor for his assent." Bengal Council Rules XV, (9).



shall either cause such communications to be printed and send a copy to each member, or circulate them for the perusal of each member. Under rule 12 of the Madras rules of business, petitions shall be in respectful and temperate language, and shall conclude with a distinct prayer. Any member may make a motion upon any petition brought under the consideration of Council. Rules 18, 19, and 20 of the Madras rules seem to be peculiar to the Madras Council. They are as follows :—

18. If a Bill be pending peculiarly affecting private interests, and any person whose interests are so affected apply by petition to be heard by himself or his counsel upon the subject of the Bill, an order may be made, upon the motion of a member, allowing the petitioner to be heard at a stated time, provided the petition be received by the Assistant Secretary before the matter to which the petition relates has been finally disposed of by the Council.

19. In no other case or manner shall any stranger be heard by himself or his counsel. If the petitioner or his counsel do not appear at such stated time, such leave shall lapse.

20. Any member may move that the hearing of any petitioner or of his counsel shall cease if such petitioner or his counsel be unduly prolix or irrelevant.

In continental legislative assemblies petitions are ordinarily referred to a Standing Committee on Petitions, and discussion takes place only on such petitions as have been recommended for that purpose. In most countries petitions can only be presented by a member, and not sent by any body. In France no petition can be received, if it comes from a meeting held on the highway. In Italy petitions are divided by the Committee into five classes :—(1) petitions which are anonymous or of doubtful authenticity, or contrary to Articles 57 and 58 of the Constitution ; (2) petitions which are insulting to religion, to the king, or to parliament, or which are evidently contrary to the statute, or inconsistent in form ; (3) petitions for things beyond the competency of Parliament, such as requests for offices, subsidies, and the like ; (4) petitions entertaining appeals for an object of public or private interest which are not within the direct competency of the tribunals, and for which, according to the petitioners, the administration has refused or omitted to provide, or has provided in a manner contrary to law ; (5) petitions which contain useful information and suggestions. No action is taken on petitions of the first three classes. If the Committee considers that the petitions of the fourth class are worthy of being taken into consideration, it proposes to the House to refer them to one or more ministers with an explanation of the reasons of its motion. Petitions of the fifth class can be deposited in the archives of the House, or be referred to a particular bureau, or to a committee, or else to

one or more of the ministers. But no action is taken on any petition which appears to be devoid of any foundation or value.

It has been stated that some right of interpellation is to be allowed in the Supreme Legislative Council. Under proper restrictions, this right is calculated to benefit the administration, as it will enable the Government to explain its action in any particular matter, to correct misrepresentations in the press, and to protect and vindicate its officers from the false and slanderous attacks so often made against them.

It is not yet known to what extent this right of interpellation is to be given, and it may be useful to note the practice in some of the continental legislatures. In Austria-Hungary interpellations which a member desires to address to a minister or head of a central board, must be presented to the President in writing, and be signed by at least 10 members in the Upper and 15 in the Lower House. The official, to whom the interpellation is addressed, may answer at once, or fix a later sitting for it, *or he may decline answering*, at the same time giving his reasons for doing so. When an answer is given, the House decides whether discussion shall follow or not. In France, even though an interpellation is placed on the order of the day, a minister is not compelled to give an answer. The same rule holds in Italy. In Germany, a question which it is desired to put to the Federal Council must be signed by 30 members. If the Chancellor is willing to answer the question, discussion is permitted after the reply to the interpellation, on a motion supported by at least 50 members. No motion is permitted, but any member is at liberty to renew the interpellation on some future day in the form of a motion.

Even the smallest right of interpellation in India will constitute a radical inroad on the existing laws and constitution. It will necessitate the amendment of sections 19 and 30 (for the Supreme and Local Councils respectively) of 24 and 25 Victoria, s. 67, which enact that "it shall not be lawful for any member or additional member to make, or for the Council to entertain, any motion, unless such motion shall be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereto." As has been pointed out in my articles on "Indian Constitutional Law," the object of these sections was to prevent the legislature from interfering with the functions of the Executive Government, and occupying its time with matters which were not directly connected with the special duties assigned to it. The Legislative Councils constituted under the Act of 1861 have been described by high authority as follows: "The Councils are not deliberative bodies with respect to any subject but that of the immediate legislation before them.

They cannot inquire into grievances, call for information, or examine the conduct of 'the executive. The acts of the administration cannot be impugned, nor can they be properly defended in such assemblies, except with reference to the particular measure under discussion." It is manifest, then, that any the slightest right of interpellation will be a wide and radical departure from the principles of the Councils' Act. It may be advisable to afford the Government an opportunity of publicly defending its acts, and those of its executive and judicial officers and officials, who now have to suffer in silence, will benefit thereby ; but to permit inquiry into grievances, calls for information or examination of the conduct of the executive, would renew, in an intensified form, all those evils, the existence of which led to the passing of the Councils' Act.

### III. THE LEGISLATIVE DEPARTMENT OF THE GOVERNMENT OF INDIA.

The late Sir Henry Maine attributed the ever-increasing necessity for legislation in India to the steady emergence of the country from a state of discretionary (or patriarchal) government into a state of government by law, and he thought that such necessity would go on increasing as the country became more and more civilized. It was chiefly through his instrumentality that the Legislative Department, which used to be only a branch of the Home Office, was in 1869 constituted a separate department ; and since that date all correspondence with Her Majesty's Government relating to Bills and Acts, whether of the Imperial or Local Councils, has been conducted in the Legislative Department

Perhaps the most important work of the Legislative Department, as a department, is the giving of opinions on cases and matters referred by the Executive departments of the Government of India. The latter may consult the Legislative department on the following subjects :—

- (1.) The construction of Statutes, Acts, and Regulations ;
- (2.) Cases involving general legal principles ;
- (3.) Proposed amendments of the law, and
- (4.) Notifications to be issued under any enactment.

Draft rules, framed under Acts of the Governor-General in Council, are also sent to the Legislative Department for consideration.

In addition to other miscellaneous duties, it is the duty\* of the Secretary in the Legislative Department to draft all

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\* It is specially enacted in the Bengal Council Rules (XX) that all acts which the Secretary is required to do may be done by any Secretary, Junior Secretary, or Under-Secretary of the Government of Bengal. They cannot be done by any other person.

Bills originated by the Government of India, the statements of their Objects and Reasons, and the Reports of the Select Committee to which such Bills are referred; if so desired, to draft Bills introduced by a non-official member in consultation with such member; to assist the Council and Committees; to examine all Bills deposited by additional members, and report to the President on those which contain clauses trenching on subjects coming within sections 19 or 22 of the Indian Councils' Act.

There is, or was, a rule by which the Legislative Departments were precluded from giving an opinion in cases in which the Advocate General had already advised. But it has been found impracticable to adhere to this rule; and, indeed, it would be preposterous to hold that the Government of India is bound to accept any opinion, the incorrectness of which could be clearly demonstrated. There is no rule that the Executive Departments are bound to accept and act on the opinion of the Legislative Department; but, as a matter of fact, they ordinarily do. By not doing so, they would shift on to themselves the responsibility which now rests with the Legislative Department. In matters in which legal questions are involved, the ministries of civilized Governments act, as a rule, as advised by their responsible Law Officers: but there is, of course, no rule, legal or constitutional, which compels them to do so.

*Respective Positions of the Executive and Legislative Departments of the Government of India as regards legislative measures.*

The Legislative Department is not, in respect of Government measures, an originating or initiating department, and its proper function in respect of such measures is to put into precise language and proper technical form projects of law, of which the political expediency has been decided elsewhere. All legislative proposals on the part of Government are first considered in the Executive Department in which they originate, or to which their subject belongs. The necessity for legislation is there affirmed, and all points of importance connected therewith are considered and settled. The papers, with the orders of Government thereon, are then sent to the Legislative Department.

All legislative proposals emanating from Local administrations are addressed, not to the Legislative Department, but to the proper Executive Department of the Government of India; but, after a measure has been referred to the Legislative Department, that department corresponds directly with local administrations.

When a Bill has been passed by a Local Legislative Council, and submitted for the assent of the Governor-General under section 40 of the Indian Councils' Act, it first goes to the Secretary to the Government of India in the Executive Department to which its subject belongs. That department, after passing its opinion on the policy of the Bill, forwards it with all connected papers to the Governor-General for orders. The Bill, if approved as an administrative measure, is then submitted to the Legislative Department to report whether there are any objections to it other than objections to its policy. The same course is pursued in dealing with any proposal for the making and promulgation of an Ordinance under section 23 of the Act, and with any proposed law which requires the previous sanction of the Governor-General under sections 19 and 43 of the Act. So draft Regulations, framed under 33 Victoria, chapter 3, are first sent to the Executive Department, and then to the Legislative Department with the view of obtaining the Governor-General's assent, in the same way as Bills passed by Local Councils.

#### IV.—EXTENT OF INDEPENDENCE OF THE INDIAN LEGISLATIVE COUNCIL.

In my essay on "Indian Codification,"\* I have given some account of the Law Commissions appointed under the Charter Acts of 1833 and 1853.† As long as these strong Commissions were sitting in England, the power and discretion of the India Legislature were subject to considerable limitation. Drafts of Acts framed by the Indian Law Commissioners were sent out to the Government of India, who were expected to accept them and pass them into law with as few modifications as possible. Such a position was naturally unpalatable to the Indian Government, and indeed, it was hardly in consonance with the constitution. Section 22 of the Indian Councils' Act empowers the Governor-General in Council to "make laws and regulations," while section 21 empowers Her Majesty to disallow such laws through the Secretary of State in Council. Thus a complete legislative discretion and initiation is given to the Government of India. Had the Indian Law Commission continued, the legislative independence of the Indian Legislature might have been seriously threatened, and it is perhaps fortunate that the Commissioners resigned (1870), owing apparently to their disappointment at the slowness of the Government of India in passing their drafts into law.

But let us leave out of the question any accidental disturbing elements, such as the existence of a Law Commission in

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\* *Calcutta Review*, No. CLXXVI, April 1889  
3 and 4 Will. IV. c. 85, s. 53 and 16 and 17 Vict. c. 95 s. 21.

England. There can be no doubt that the Indian Legislature is not vested with absolute independence and discretion in the same sense as the House of Commons, or the legislature of any Sovereign State. The great principle which underlies the Government of India is, that the final control and direction of Indian affairs rests with the Home Government and not with the Government in India. The latter is subordinate to the former, and no Government can be subordinate, unless it is within the power of the Superior Government to order what is to be done or left undone. It is true that the Imperial Government always has the power of imposing its veto on any Act passed in India. But is a mere negative or destructive power sufficient? To be real and effective, it must be affirmative or creative. The Home Government might be of opinion that the passing of some particular measure into law was essential for the welfare or safety of the Indian Empire. If Acts known as executive may be ordered, it seems to follow that legislative measures may be ordered. The constitution of the Government of India is peculiar. Its executive members do not cease to be such, because they are also legislators. We must banish from our minds the distinction which exists between "the executive" and "the legislative" in an independent Sovereign State. Members of the ministry in England are also legislators; but they are bound to carry out the wishes and policy of the Government or resign. So the position of a member of the Government of India as a legislator is secondary and subordinate to his position as a minister; the legislative capacity is but the necessary concomitant and complement of the executive or ministerial capacity. This is the recognised principle of British government in relation to other parts of the Queen's dominions, where the authority of the legislating body is derived from the Crown, and is not founded on the principle of popular representation. At the same time it could only be on rare and exceptional occasions that the Secretary of State would call on the Government of India to pass any particular measure; and the exercise of such a power, in the absence of special and urgent reasons, would probably be a straining of the constitution.

That the ultimate power rests with the Home Government of requiring the Governor-General to introduce a particular measure, and of requiring also the members of his Government to vote for it,\* appears to be unassailable as an abstract proposition; but a frequent resort to this power would be a straining of the constitution, because it would reduce an integral part of the Indian constitution to insignificance, and would prevent the whole from working as

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\* See *infra* pp. 55 and 56.

designed. Parliament never intended \* that the Indian Legislative Council (any more than the Executive Council) should merely register the decisions of the Secretary of State. No doubt the Secretary of State has the legal right to order the Government of India to do any thing he pleases. The Governor-General and Council are directed, by sec. 9 of 13 Geo. iii. c. 63, "to pay due obedience to all orders received from the Court of Directors" (now represented by the Secretary of State); and 33 Geo. iii. c. 52, s. 65 † constitutes it a misdemeanour to "wilfully disobey or wilfully neglect to execute the orders of the Court of Directors." These words must be held to cover orders to introduce and pass a certain Bill as much as orders to perform any other act of Government. It would seem that members of the Government of India must obey the orders of the Secretary of State or resign; *but if the Government of India as a body were strongly of opinion that some order of the Secretary of State ought not to be carried out, they might be justified in appealing to Parliament with reference to sec. 51 of the Charter Act of 1833 (3 and 4 Will. iv. c. 85).*

It is the practice for the Government of India to inform the Secretary of State of proposed legislation; and the object of this rule is to prevent any conflict between the Indian and Home Governments. But the Secretary of State has no direct power

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\* The intention of Parliament may be inferred from the debates on the Government of India Bill:—The Earl of Derby said: "The Government of India must, as cannot too often be repeated, be on the whole carried on in India. . . . I cannot help expressing my opinion that, with regard to the details of the Government of India, the less interference there is on the part of Parliament, the better prospect will there be of securing the happiness and contentment of the people of India." 3 Hansard, Vol. 151, 1448. Lord Broughton said he would keep the Government of India out of Parliament as much as possible. In the House of Commons, Sir Charles Wood said that it was essential that the proceedings of the Government of India should be reviewed by the Government at home. Mr. Bright "took it for granted that in future there would be more business done in India, and less at home ('no, no!'). Well, all he could say was, that if there was not more business done in India, and less at home, and the business at home confined to deciding upon great measures, and giving a veto or an assent, as the case might be, he could see no prospect of getting out of the difficulties in which we were now placed with reference to India." Viscount Goderich "thought the only sound principle to act on, was to leave questions of detail to be settled in India itself." Mr. Cumming Bruce said: "Sir Charles Metcalfe had recorded it as his opinion, that the real danger in the Government of India would be felt when party spirit in the House of Commons first acted directly on the affairs of India." Mr. Bright "was of opinion that unless you could get rid of nine-tenths of the matters which were referred to this country, you could never have a Government of India worth calling a Government."

† To the same effect is 3 and 4 Will. iv. c. 85, s. 80.

to interfere and alter measures in their passage through the Council. It is true that it may be an accident whether a particular Act of Government is executive or legislative, and under the Indian Constitution there is, perhaps, less distinction between these two classes of Acts than in the constitution of any other country. Nevertheless, there is a distinction, and that of a well-known and well-defined nature. An analogy with judicial Acts is deceptive and misleading; a judicial body has merely to *declare* the law without regard for consequences, but a legislative body is subject to many influences, and a legislative Act is often a compromise, the outcome of a number of opposing forces. In fact, a legislator may sometimes have to sacrifice his own opinion for important State reasons. This is pre-eminently so in India. Still, the word "legislative" does connote a certain amount of independence.

What is the exact position of the Indian Legislative Council to the Secretary of State? The question is not free from difficulty, and it is necessary to drive the discussion further home before we can arrive at any clear and tangible proposition. As regards initiation, it is not possible to distinguish very materially between executive and legislative Acts in regard to the Secretary of State's right to be consulted, or at least informed before hand. Under the Company, Anglo-Indian officials were subject to a mercantile body; they were the servants of an absolute master. The Secretary of State has now taken the place of the mercantile body, and the above relations still remain, *so far as they have not been altered by Parliament*. Now the Indian Councils' Act has considerably altered the position. The functions of the various component parts of the constitution have been assigned by an Act of Parliament. This Act seems to throw the whole duty and responsibility of initiating legislative measures on the Indian Government. The only power which it reserved to the Secretary of State seems to be that of considering the measures as a whole, and of deciding as a whole whether they shall be disallowed or not. Section 22 of the Act empowers the Governor-General in Council to "make laws and regulations for all persons, courts, places and things whatever," a few subjects only being expressly excepted. By section 20 the Governor-General has the power to assent to a measure passed by the Legislative Council, or to dissent from it, or to reserve it for the pleasure of the Crown. It is only when he has assented that the Secretary of State comes in. By section 21 it is provided that, if he assents, he shall transmit an authentic copy to the Secretary of State, and then it is lawful for the Crown to signify its disallowance of the law through the Secretary of State in Council. It would certainly be unconstitutional, and it might also be illegal, for the Secretary



of State to insist on some particular alteration of a Bill during its passage through Council. He does not appear to be justified in interfering with a Bill during its progress. Granted that he<sup>\*</sup> can order the Governor-General in Council to introduce a particular measure. Still the latter body cannot be prevented from altering a Bill during its progress, and after any measure has been actually introduced, the Secretary of State in Council<sup>\*</sup> has no *locus standi* until the Crown comes to decide whether the law should be allowed or disallowed.

In fact, the Councils' Act recognizes that there is a difference between executive and legislative Acts. The Councils' Act introduced three new elements into Indian legislation :—

1.—Oral discussion.

2.—Reference of Bills to a Select Committee instead of to a single member.

3.—Publicity of proceedings.

The element of publicity is of great importance, as it constitutes an additional check or sanction. Moreover, the notion of a legislature necessarily implies *some* independence, some relaxation of the control of the Home Government as regards matters which must be passed through the legislative machine. The word "machine," is not quite an apt word to describe the process of legislation. The difference between a particular executive or a particular legislative measure, carried out under orders from the Secretary of State, lies in the fact that the executive Act is, so to speak, the inevitable effect of a cause, whereas the legislative Act cannot be *purely mechanical*.

By the term "Indian Constitution," we mean to express the scheme of government for India which has been laid down by Parliament, and which, of course, Parliament may alter from time to time. In distributing the functions of government in regard to legislation, Parliament has in clear terms directed that the initiative should rest with the authorities in India, while the power of veto rests with the Secretary of State as the responsible adviser of the Crown. That Parliament did not intend that the Secretary of State should ordinarily interpose at any earlier stage, may be inferred from the fact that the Councils' Act makes no provision for such interposition. It is important that the body which legislates for India should be as free as possible from English political and social influences, and nothing but the strongest reasons of imperial urgency could justify the English Government in bringing such influences to bear on Indian legislation.

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<sup>\*</sup> Not the Secretary of State, be it observed. See sec. 21 of Indian Councils' Act.

But there is another aspect of the question, and the question itself is one of such importance that it is necessary to consider it from every possible point of view. Her Majesty's Government in England are as much responsible to Parliament for the proper government of India, as they are for that of any of the Crown colonies of the Empire. The responsibility is even more complete, inasmuch as it is armed with a more powerful sanction. The authorities of a Crown colony would only incur administrative censure for disobedience to superior orders; but the authorities in India would be liable to prosecution and punishment for a misdemeanour at law.\* The constitutional responsibility of Her Majesty's Government is complete and constant, because the action of the Government of India on the most vital questions may at any time be challenged, and motions of censure made in the House of Commons; in which case the policy pursued must be defended in detail by the representatives of the Government in debate, and the motions of censure are submitted by a division to the judgment of the House. The only responsibility known to Parliament is that of the responsible ministers of the Crown,† and it is the superintending authority of Parliament which is the reason and the measure of the authority exercised by those ministers. If the one power is limited, the other must be limited at the same time.

This being so, it is obviously essential that there should be a complete concurrence between the Home and Indian Governments. It would be most detrimental to the public interests that there should be any conflicts of opinion between them, and such conflicts can only be prevented by securing the fullest communication before any final step (executive or legislative) is taken. Indeed, the necessity for a clear preliminary understanding is stronger in the case of legislative measures, as they are less easily disallowed than executive proceedings. It is far better that any particular measure should be withdrawn or modified before it has been launched in the Legislative Council, than that it should be disallowed after it has run the gauntlet of discussion in Council, of Select Committee, of publication, and of criticism by local authorities and the Press. Disallowance generally implies open condemnation, and publicity and emphasis are thus given to the divergence of opinion between the Home and Indian Governments.

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\* 3 and 4 Will, iv. c. 85, s. 80.

† In the debates on the Government of India Bill, Sir Charles Wood said that the Minister for Indian affairs should be responsible to the Crown and the country; the Council of India was only to give him assistance. Viscount Palmerston said: "We are all agreed that the Home Government of India shall be managed by a Minister who shall be responsible to Parliament."

It is, therefore, better that the Indian Government should not publicly pledge itself until it has procured the approval of the Home Government. If this is done, there is little danger of the dignity and position\* of the Governor-General being injuriously affected. The words of the 39th section of the Charter Act of 1833 are as follows: "The superintendence, direction, and control of the whole Civil and Military Government of all the said territories and revenues in India shall be vested in the said Governor-General in Council." The Court of Directors, in sending out this Act to India, wrote as follows: "The powers here conveyed, when the words are interpreted in all their latitude, include the whole powers of government, and it is of infinite importance that you should well consider and understand the extent of the responsibility thus imposed upon you. The whole Civil and Military government of India is in your hands, and for what is good or evil in the administration of it, the honour or dishonour will redound upon you." But circumstances have changed since then, owing to the following new factors, among others; the growth of public opinion, a free press, greater facility and rapidity of communications, increased knowledge of Indian affairs in England, the more frequent interference of Parliament, and the necessity for ruling British India on the same imperial lines as the rest of the British colonies and possessions. The Indian Legislature is intended to be, and must in the nature of things be, an official Legislature. It is not even like the Legislature of a colony with a representative assembly. It is not permissible to it to legislate on lines and principles contrary to those laid down by the Home Government. The Governor-General and the members of the Executive Council are appointed by the Crown, and additional members are appointed by the Governor-General. All official members may be removed at the pleasure of the Crown. The Government can always pass into law a measure on which they are agreed; and if they are not agreed, the Governor-General may, in urgent cases, override his Council (33 Vic. c. 3, s. 5). He may also, "in cases of emergency" (24 and 25 Vic. c. 67 s. 23) make ordinances having the force of law for six months. Having regard to these facts, it would be erroneous to describe the Indian Legislative Council as an independent legislature.

From the foregoing the following propositions may be laid down:—

1. The Secretary of State has a right to be informed beforehand of proposed legislative, as of executive, acts of importance; so that the Home Government may have a chance of intimating approval or disapproval.

2. Subject to this right, the Government of India can initiate any legislation it pleases.
3. The Indian legislature is mainly an "official" legislature: it is not an independent legislature in the strict sense of the term.
4. The Secretary of State can order the Government of India to pass a particular legislative measure, (and he can require Government members to vote for it.)\* If he were to do so in the absence of urgent reasons, it would probably be a straining of the constitution.
5. The Indian Councils' Act recognizes a distinction between "executive" and "legislative" Acts. Legislation connotes *some* independence; and the Secretary of State has no direct power to interfere and alter measures during their passage through Council.
6. Non-official members may vote as they please.

#### V. EXTENT OF INDEPENDENCE OF LOCAL LEGISLATIVE COUNCILS.

A persual of the Indian Councils' Act is sufficient to show that the legislative powers of the Local Governments are more closely subordinated to the Government of India than are those of the Government of India to the Imperial Government. In the former case a law is not valid until the Governor-General has assented to it; in the latter case the Secretary of State's assent is not needed, though he can disallow it. It is less difficult to refuse assent than to disallow. Moreover, the list of subjects on which a Local Council cannot legislate, without the previous sanction of the Governor-General, is somewhat comprehensive (24 and 25 Vic. c. 67 s. 43), while it cannot affect any Act of Parliament, or, any Act of the Governor-General in Council passed after the Councils' Act came into operation (1861), nor can it affect *in malam partem* the jurisdiction of the High Courts.

The necessity for the Government of India settling before hand with the Home Government the policy of all important measures has been discussed above; and Local Governments are even more bound to inform and consult the Government of India. When sending out to India the Charter Act of 1833, the Court of Directors said.—

"It is evidently the object of the present Act to carry into effect the intention of the Legislature to which we have alluded.†

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\* Perhaps the sentence in brackets requires some modification or qualification. It is further considered in the following parts.

† That is, an intention to give the Governor-General in Council "a control and superintendence over the other Presidencies as complete and paramount as it was possible for language to convey."

Invested as you are with all the powers of government over all parts of India, and responsible for good government in them all, you are to consider to what extent, and in what particulars the powers of government can be best exercised by the local authorities, and to what extent and in what particulars they are likely to be best exercised when retained in your own hands. With respect to that portion of the business of government which you fully confide to the local authorities, and with which a minute interference on your part would not be beneficial, it will be your duty to have always before you evidence sufficient to enable you to judge if the course of things in general is good, and to pay such vigilant attention to that evidence as will ensure your prompt interposition whenever anything occurs which demands it."

Under the Indian Councils' Act the power of initiating local legislation is given to local Legislatures (sec. 42) whilst the power of withholding assent is reserved to the Governor-General (sec. 40). Now two not altogether compatible objects have to be aimed at—

1. The Government of India must have some opportunity of examining local Bills beforehand with a view to see if they are in any way objectionable, that is, of such a nature as to render it probable that the Governor-General will be unable to accord his assent to them when passed :
2. At the same it is essential that the Viceroy should keep himself unfettered to consider each Bill, after it has passed the local Legislative Council, in the light of the discussions which may have taken place in that Council, in the press, or elsewhere.

The power of a local legislature to initiate legislation is, *so far as law is concerned*, limited only by sec. 43 of the Councils' Act which prohibits the undertaking of legislation regarding eight specified subjects without the previous sanction of the Governor-General. But under orders of the Government of India all Bills containing penal clauses, must be first submitted for previous sanction. As a matter of *practice*, however, apart from *statutory direction*, all Bills, broadly speaking, are submitted to the Government of India. The practice is much the same in the case of all local Legislatures. As regards Bengal, the Government explain to the Government of India the nature, scope and objects of any measure they propose to bring forward, stating at the same time the date on which they propose to bring it before Council. A draft Bill is not necessarily submitted. No particular reply to such a communication is expected, but the local Government waits a certain time to give the Government of India an opportunity of making any objection. If no instructions are received which preclude the Government from proceeding

with the proposed measure, it is introduced in Council accordingly. It may be said that such a procedure fetters the discretion, and lessens the independence of the local Council. But the local Council is no more independent than the Supreme Council. Indeed, it is less so. Nor need preliminary advice and intelligence be followed by unnecessary interference or unconstitutional dictation on the part of the Government of India. Such advice and intelligence is required not more on imperial grounds than in the interests of provincial Governments. It enables the Government of India so to exercise their power of interference as to obviate, by timely and judicious criticism, the possible necessity for ultimate disallowance.

It is highly desirable, on all grounds, that all local Bills should be submitted to the Government of India previous to their introduction in Council; and reading one statute with another, it is hardly too much to say that the Indian constitution requires that this should be done. English constitutional ideas must not be rashly applied. "Executive" and "legislative" are far more distinct terms in English than in Indian constitutional law. *In India the legislature is but the executive acting publicly, with a few additional checks or sanctions in certain matters which are beyond the competency of the Executive Government acting alone.* The arguments adduced above to show the subordinate position of the Government of India to the Home Government, apply with even greater force to Local Governments in their relation to the Government of India.

When Bills are before local Councils, all latitude of discussion is allowed; but, of course, the President may at any moment interpose, like the Speaker of the House of Commons, to prevent objectionable language or irrelevant discussion. A good deal of fault has been found from time to time with local legislation, but some at any rate of the objections are not of much importance, being objections of form rather than substance. The following objections or criticisms may be mentioned :—

1. Some local Acts, dealing with similar subject-matters, are almost identical, and the Indian statute book has thus, at some waste of time and expense, been encumbered with several enactments when one general measure would have sufficed.
2. The wording and structure of the Acts of one local Legislature differ from those of others, and from the Acts of the Governor-General in Council :
3. The wording of local Acts is sometimes loose and ambiguous, and in some cases the want of arrangement is such as to lead to confusion.

4. Some Acts are needlessly inconsistent with others of the same kind.
5. There is a decided want of harmony in the principles underlying the enactments of the various Indian Legislatures.
6. The subjects proscribed by sec. 43 of the Councils' Act are sometimes touched without the previous sanction of the Governor-General in Council. So, either from ignorance or carelessness, Acts are passed, which affect *in pejus* the jurisdiction of a High Court, or alter some Act of the Governor-General in Council passed subsequently to 1861.

The first objection is of no value. It is laid down in the Secretary of State's despatch, which accompanied the Councils' Act, that the Supreme Legislature should not interfere with matters of local administration. The objection seems to assume that all legislation should be general and uniform for all parts of India, but the same despatch lays it down that "the circumstances of different parts of India are widely different, and may, even under the same general head of administration, require widely different measures of a practical character, and it will be no ground for condemning a measure for any particular subject passed for one Presidency that it differs in some respects from another measure on the same subject for another Presidency." A want may be felt in one Presidency and not in another. The second objection also is unimportant.

There is some truth in the third and fourth objections, the reason being that Acts are sometimes drawn by persons, who have but an imperfect acquaintance with the *corpus*—a very vast *corpus* now—of Indian law. In my article on "Indian Codification" occurs the following passage in this connection: "The Indian draftsman must not only know what to say, but also what to abstain from saying; and this knowledge can only be obtained by long study and residence in India. To draft even the simplest Act, the draftsman must have at his finger's ends the whole body of existing law on the same subject. The Indian draftsman should know the statute law, the case-law, native law, and local usage, as well as the English statutes and reports as are known to Parliamentary draftsmen." A Legislative Secretary, intimately acquainted with every branch of the administration, is as much a *sine quâ non* for a local Council as for the Supreme Legislature. Acts will certainly be best drawn by persons who are on the spot, and who are thoroughly acquainted with the existing state of the law, the objects it is intended to effect, and the habits of those to whom the law is to be applied.

The fifth characteristic (where it exists) is but the natural consequence of having different local Legislatures to make laws for different parts of the country varying much in their circumstances and condition. This objection is vague, and there does not seem to be much meaning in it. Octroi duties, for instance, are found suitable to some provinces and not to others. To prevent experiments in administration being made until they are universally approved, would often be to defer them for ever; the alternative of forcing on a Presidency a policy which it disapproves, is the very evil which the Indian Councils' Act was intended to prevent. At present each Presidency experiments upon itself for the benefit of all India. It would be impracticable to pass a uniform sanitation Act for the whole of India; but the fact that one Province does not desire systematic sanitation is no reason for depriving another province of it.

As to the sixth objection, it cannot be said that local Legislatures often make mistakes in the points referred to. Errors, however, are committed sometimes, the most recent instances being the Calcutta and Bombay Municipal Acts, to validate which a special Act (XII. of 1888) had to be passed in the Supreme Council. But it is doubtful whether even thorough familiarity with Indian law, and particularly Constitutional Law, could prevent the occasional occurrence of such mistakes. For instance, very difficult questions may arise as to whether a local Legislature can extend the territorial operation\* of an Act of the Governor-General in Council which it is not competent to amend, or as to whether any particular provisions should or should not be construed as taking away any of the jurisdictions conferred on a High Court by the High Courts Act, or by Letters Patent.†

As has been remarked above, almost all local Bills ought, before they are introduced, to be sent to the Government of India for consideration or at least information. But it may be said that, in the case of measures of wide extent and complexity, the Select Committee often make very substantial amendments and alterations, which render it advisable that the Government of India should see the Bill again after the Select Committee have done with it. To make any such rule

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\* I, of course, do not refer to such Acts as the Easements Act, in which power is specially given to Local Governments, to extend to their territories whenever they think fit.

† An Act which merely removes the possibility of some contingencies arising, on the happening of which a High Court might exercise its powers on the original side, or on hearing an appeal, in other words, which merely affects the extraordinary or appellate jurisdiction of a High Court, would probably not be held to take away any of the jurisdiction of the High Court.—8 Bom. H. C. R. 195



would not only savour of excessive supervision and undue interference, but (I speak from personal knowledge of the Bengal Council) it might not always effect the object aimed at. In the Supreme Council, nearly every Bill is substantially passed as arranged by the Select Committee; specific amendments may be subsequently introduced, but there is no close examination and revision of the whole Bill. The procedure of the Bengal Council, on the other hand, very much resembles that which obtained in the Council of the Governor-General prior to the passing of the Councils' Act of 1861. Every Bill is subjected to careful examination and revision throughout by a Committee of the whole Council after it comes from the hands of the Select Committee, and a Bill frequently undergoes material alteration as to arrangement, wording, and substance. It follows that it might, in certain instances, be no good to send to the Government of India the Bill as revised by the Select Committee, as the Council might set aside the suggestions and amendments of the Select Committee. There are doubtless evils in the independence and free discussion of local Councils, and those evils may become intensified in the future. But there are corresponding benefits also, namely, publicity, popularity, adaptation of laws to the special wants of a Province, and that heightened interest in local matters which results from being uncontrolled in dealing with them.\* These benefits would be much diminished by an anticipatory *censorship* on the part of the Government of India. I purposely use the word *censorship* as connoting a minute, unnecessary, or vexatious interference. But a preliminary inspection of policy and principles is obviously indispensable on broad grounds of State necessity, and is in accord with the constitution.

All local Bills are submitted not only to the Government of India, but to the Secretary of State also, the Governments of Madras and Bombay submitting their Bills direct. A local Bill is submitted either generally for approval, or specially for sanction under the 43rd section of the Councils' Act, or for consideration of penal clauses. In any case it is the practice for the Executive Department to consider it from an administrative point of view, and it is then sent to the Legislative

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\* Rapidity of legislation would be, it was hoped, one of the characteristics of local Councils; and until comparatively recently, has been so. But the cloven foot of the "debating Society element" (which proved so disastrous in the Supreme Council before 1861) is beginning to make itself apparent. This element, however, can always be kept in check by the power which the President has of framing and altering, as circumstances may demand, the Rules of business. The present Rules, if properly observed and enforced, ought to be sufficient to prevent waste of time.

Department for examination as to whether there are any objections to it, other than objections on grounds of policy. But a communication conveying approval of the penal clauses of a Bill does not imply the expression of any opinion on the part of the Governor-General upon the other portions of the Bill. The Home Department is always at liberty to note any administrative defects in a measure for the Governor-General's information, while the Legislative Department considers if it is in any way *ultra vires*, or inconsistent with the general principles of Imperial Legislation. It is for the Governor-General to decide whether objections are to be communicated to the Local Government, and if so, in what form.

As regards the transmission of Bills to the Secretary of State, the Legislative Department simply acts as a post office. In the examination of local Bills, and in any communications to the local Governments which may appear necessary on such examination, one important point is always kept in view, and that is, that nothing should be done which would tend to fetter the Governor-General in the final exercise of his power of veto, after he has had before him the discussions in the local Legislature and the comments of the public.

#### VI.—POSITION OF OFFICIAL MEMBERS OF LEGISLATIVE COUNCILS.

Ought the members of the Governor-General's Council to follow the rules and practice of the English cabinet, and exhaust all differences of opinion on important Government measures by discussion in the *Executive* Council, so that they may act with thorough unanimity in the Legislative Council? Is a Government member at liberty to oppose a Bill, because he strongly objects to it, or is he bound to abstain from opposition?

The rule\* that a Government member should not appear as

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\* "Rule" is hardly the word to use; but the intention of Parliament may be inferred from the debates that took place. 3 Hansard, 154. The Earl of Derby said: "When I look at the mode in which the Council is to be constituted, and see that one-half of the members who are to be added, may be persons holding official situations, and that the whole of them are to be selected by the Governor-General himself, I think there is no danger of the Council exhibiting a great appearance even of independence, or at all events of hostility to the Governor-General, or any desire, even if they had the power, of overruling any decision of his. On one point, I believe, there is no difference of opinion—namely, that the Legislative Council, as lately constituted, not by the intention of Parliament, but by the course pursued in India and acquiesced in here, ought not to be permitted to continue—that the system of a little mock Parliament is wholly unsuited to the circumstances of India, and to the position which the Council occupies there." Earl de Grey and Ripon said: "To the objection that the Council, as proposed to be constituted by the Bill,

an opponent of a measure, which the Government of India as a whole think ought to be passed, is reasonable and sound. But the rule cannot be pushed so far as in England, as it is not practicable to offer to the members of the Government of India the same alternative which is offered to English cabinet ministers. Divergencies of judgment in the secret Executive Council of the Government of India are far less serious than open differences of opinion in the Legislative Council. It is the open differences which become publicly known, which tend to prevent cordial co-operation between members of the same Government. The bitterness of feeling which prevailed at Lord Liverpool's death among the members of his cabinet has been attributed, not to the internal discussions of the ministry, but to the fact that these discussions were constantly kept before the public in the debates on Roman Catholic emancipation. Such open differences of opinion must have the effect of weakening the power of the Government to discharge its executive duties, which are its really important duties. In a country like India, especially, where such large and positive inferences are commonly deduced by the public and the press from facts insignificant or imperfectly ascertained, it is almost certain that public opinion, both native and European, would argue from frequent differences in public to frequently divided counsels in private, and thus the executive action of Government would run some risk of not being believed to have emanated from that concentrated purpose which is the first condition of its effectiveness.

But it may be argued that the analogy of the English cabinet is hardly apposite. The cabinet represents a party, and has to carry out a party policy in the face of a watchful and generally

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would prove more unmanageable than the present Council, he could only reply that the members of the existing Council held their seats *ex officio* and were appointed by other authority than that of the Governor-General; whereas the additional members of the proposed Council would be selected by the Governor-General, and would hold their seats for only two years. . . . It was scarcely possible to imagine a case in which the selected members, one-half of whom were to be persons actually in the Service, would combine to defeat a Bill brought forward by the Governor-General; but, if such a case did occur, it would afford tolerably strong grounds for supposing that it was not altogether desirable that the measure should be passed.' On the other hand, I find the Earl of Ellenborough said: "Now, their Lordships could hardly be aware of the entire and absolute independence of the gentlemen of the Civil Service. They might depend on it that they could not induce gentlemen of high character and station in the Civil Service to enter the Council if it was thoroughly understood that they were always to vote with the Government. . . . If they gave the Governor-General in Council the power to make an ordinance which would last for six months, that would be quite sufficient to meet any misconduct of the Legislature."

hostile opposition ; the Governor-General's Council is not constituted for party purposes, and differences of opinion need not necessarily engender bitterness of feeling, as they neither endanger Parliamentary seats nor places under Government. In the Indian administration, there is not, or ought not to be, any opposition for opposition's sake, which is so lamentable a characteristic of Parliamentary Government in England. Nevertheless, differences of opinion constitute an element of danger, and if they were marked or frequent, might necessitate a change in the *personnel* of Government.

Let us take the case of the Governor-General's Council. Ought it to be allowable for members of the Executive Council to oppose, openly, at a Legislative meeting, an important Government measure, the expediency and necessity of enacting which have been deliberately affirmed by a majority of the Council, including, of course, the Governor-General ? \* It would certainly be inexpedient and impolitic for a dissentient member (or even a dissentient minority) thus to make known and accentuate a difference of opinion. It might be productive of great mischief if a new tax, proposed after mature consideration, and perhaps in a serious financial crisis, with the assent of the Governor-General and a majority of his Executive Council, were to meet with public and open opposition from a dissentient minority of that Council. Much more disastrous would it be in the case of some measure, on which the public peace or the safety of the Empire depended. There are strong reasons why a high and unselfish consideration of duty should lead a dissentient member (or a dissentient minority) to defer to the opinion of the Governor-General and the majority of his Council. These reasons are in part incidental to the constitution. It must be borne in mind that the constitution allows the Governor-General to override his Council in certain matters. A majority, which includes the Governor-General, is a peculiar and emphatic majority. It is quite impossible, as far as important measures of policy are concerned, to distinguish between those which do, and those which do not require legislation ; a Government Bill is simply a means of carrying out an order of the Executive Government that a new law be made or the old law altered in some particular.

The authority of the corporate Executive Government over its members in their legislative capacity is one of the elements of the Indian constitution, and is merely the result of a number of Parliamentary statutes. Any other doctrine would be

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\* If the Governor General were opposed to a Bill, it would not be introduced as a Government measure.

antagonistic to and subversive of the constitution. If unlimited liberty to oppose is conceded, unlimited liberty to propose must also be conceded. Could a member of Council, apart from the wishes of the Government of India, propose in the Council Chamber the abolition of ecclesiastical offices, the repeal of the income tax, or the imposition of a tax on marriages, tobacco, or pân ? Clearly not. If, then, the negative policy of the Executive Government is to prevail against an individual member, it would seem to follow that its affirmative policy should similarly prevail. At the same time it is open to a dissentient member to record his dissent in an executive minute ; and if legislation were not urgent, it might be proper for the Governor-General and the majority to refer the question for the orders of the Home Government.

But no definite or rigid rule can be laid down for all cases. There are questions in which the province of politics or pure administration touches and overlaps the region of morals. It would be impossible to argue that a man is bound to vote against his conscience or against his convictions in a question of morality or religion. I use the word morality in its narrowest sense. But such questions would rarely occur. Apart from such questions, or in other words, in all questions of pure administration, it would appear to be the duty of a dissentient member, not only to abstain from opposition, but to support an important Government measure by his vote. In fact, it appears to be the ordinary rule, that members of the Government should exhaust all differences of opinion in their executive discussions, and then act together in the Legislative Councils in accordance with the opinion of the majority.

The above remarks and conclusions are equally applicable, and for the same reasons, to the Councils of Madras and Bombay. The neglect of the rule has recently interfered seriously with the legislative efforts of the Bombay Council. It would lead to serious scandal and complications, if a member of a provincial Council could defeat a policy, which had been approved not only by his own Government, but by the Government of India and the Secretary of State in Council. The Government members of a Lieutenant-Governor's Council are or should be even less independent than the members of a Governor's Council. In Bengal, the Government members generally include a member of the Board of Revenue, the Legal Remembrancer, a Secretary to Government, and the Head of the Education Department. The Advocate-General is by statute a member. There is probably more freedom and latitude of discussion in the Bengal Council than in any other Council. This is, perhaps, natural

in the metropolis of what is, in one respect,\* the most advanced province in India. Amendments brought forward by native members are sometimes supported by official members, even when those amendments substantially alter the policy of some particular provisions of an Act†. Such independence may, in the case of certain measures, improve the quality of legislative work; but official members should not forget that it is their duty to support the Head of the Government in those cases in which he is of opinion that it is essential, in the interests of the Empire or of the Province, to pass a particular measure, or at least some portions of it intact. A local Bill must after all run the gauntlet of three assents, those of the Lieutenant-Governor, the Governor-General, and the Secretary of State, and in deferring to the opinion of the Head of the Government in important measures of policy, an official member merely evinces his appreciation of the fact, that it is useless and unjustifiable to kick against the pricks of the constitution.

Local legislation has, from time to time, shown that members of local Councils are not so familiar with the written constitutional law of India as they might be. I state this fact with all deference. A powerful Legislative Department forms an integral portion of the Government of India. Important matters in other departments are sent to the Legislative Department for opinion or revision, and in this way the members of Council and Secretaries of all departments can, and do without any special study, become acquainted with a considerable portion of Indian Constitutional Law. There is no such Department in the Bengal Government, the Assistant Secretary being merely the clerk of the Council‡. It may be said that the Government has its Law officers; but unfortunately, innocence of the very rudiments of Constitutional Law seems to be no obstacle to appointment to the post of Advocate-General.

To sum up what are the possible courses, I will not say open to, but to one of which an official member should resort, when he disagrees with a Government measure brought forward in the Legislative Council:—

1. He may be present, and oppose the measure by argument and vote
2. He may be present and give a silent vote against it.

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\* In respect, I mean, of higher education. Madras is far ahead in primary education, and several Provinces are ahead of Bengal in material progress.

† I might instance some of the amendments (notably those regarding the principles of taxing house-property in the native town) during the passage of the Calcutta Municipal Bill of 1888.

‡ He is never required to note, from a legal or constitutional point of view, on proposed administrative acts or measures.

3. He may be present and give a silent vote for the measure.
4. He may absent himself.

Of course it is out of the question to expect a member or responsible official of Government to *speak* in support of a measure to which he is opposed, though this is sometimes done in the House of Commons.

The fourth course is to be altogether deprecated, as it might create an altogether erroneous or exaggerated idea of the extent of difference of opinion. The third course would appear to be incumbent in all cases in which the Governor-General and a majority of his Council (or the Lieutenant-Governor) were of opinion that it was necessary, for the safety or interests of the Empire, to pass a particular measure. Indeed, even less urgent State reasons (*e. g.* a question of taxation) would seem to point out this course as the one to be followed in the very large majority of instances. The first and second courses appear to stand together; from the point of view of a member's duty, there does not seem to be any material difference between them. I mean, that even the less marked opposition implied in the second course, would only be justifiable in those very exceptional cases, in which a serious question of conscience might be at stake; and if an official member might silently vote against a measure on strong conscientious grounds, most Englishmen, I apprehend, would be in favour of allowing him also to speak against the measure, as that might be the only means of satisfying some consciences.

#### VII.—ADDITIONAL MEMBERS OF THE GOVERNOR-GENERAL'S LEGISLATIVE COUNCIL.

These members are either official or non-official. The former are Government members and, as such, their position and freedom are of the same character and extent as that of members of the Executive Council. Non-official members are quite independent and vote as they please.

It has sometimes been supposed that an official additional member, selected for his knowledge of some particular province, is the representative or mouth-piece of the administration of that province. This view is not correct, and it is in no way supported by the language of the Act under which additional members hold their offices. But if an official additional member is, as is generally the case, in charge of a Bill especially affecting the local interests of his own province, it is no doubt advisable that he should communicate freely and personally, but unofficially, with the Head of the Local Government, the Board of Revenue, or any other body or officer possessing special knowledge of the subject-matter

of the Bill. But all official communications are addressed to the Secretary to the Government of India in the department to which the particular business appertains.

The Home Government attaches a good deal of importance to the attendance of the non-official additional members at deliberations of the Legislative Council. But having regard to the actual experience of the past, it may well be doubted whether the value of such attendance has not been over-estimated. However, in pursuance of the views of the Home Government, regular legislative sittings are held in Calcutta, and all measures of great importance are then enacted. Measures relating to individual provinces under the Government of India (*e. g.* Assam and the Central Provinces) are generally passed at Simla, and the period of residence there is also properly devoted to the executive preparation of legislative measures, which are afterwards discussed and enacted in Calcutta. The technical details of heavy Bills are also dealt with at Simla, and laws arising out of any emergency are, of course, framed as and whenever the necessity arises. Official additional members are, as a rule, only summoned to Simla for the purpose of preparing and working out the details of measures in which special or local experience is required; and their assistance in this respect enables the Legislative Department to get through work which unaided it might not be able to accomplish within the required period.

*Simla vs. Calcutta as the Seat of the Indian  
Legislative Council.*

It may, no doubt, be conceded that the spirit of the Indian Councils' Act of 1861 would be violated by any system of legislation which did not admit of the attendance at Legislative meetings of the *largest* number of additional members of Council *possible under the circumstances*; and any method of transacting legislative business, which prevents the attendance of these members, would no doubt defeat the intention of the Imperial Legislature. The question is, whether Calcutta is as convenient a place as Simla. European mercantile members can only attend in Calcutta: but Simla is probably more convenient for other non-official members. The objection to Calcutta on the score of health is, perhaps, not so strong as it used to be, but it has by no means passed away. There have been two instances of native members from other Provinces having fled after attending only one legislative sitting, and natives, other than Bengalees, still have a prejudice against, and a dread of remaining long in Calcutta. There is at present a demand for more representation of the educated classes, and there can be little doubt that non-official native members



from all parts of India except Bengal) would more readily attend at Simla than at Calcutta. A discussion whether Simla or Calcutta is the better for the sessions of the Legislative Councils brings us perilously near the Hill-exodus question, which has been 'threshed out almost *usque ad satietatem*. Perhaps that question received a little extra light and illustration, when the High Court judges, and almost the whole of the Calcutta bar fled helter-skelter up to Darjeeling from the intense heat of June 1888, while officials in the mofussil, where the thermometer stood higher than in Calcutta, sighed with envy and wished that, like a certain High Court judge, they could declare their Courts closed till the ensuing rains. Members of Council cannot leave India, while High Court judges rush to England almost every year.

There can be little doubt that regular legislative sittings at Simla would be more likely to conform to the policy and wishes of the Home Government, as regards the attendance of as many non-official members as possible. The repugnance to the climate of Calcutta is not confined to Indians. It is shared by English statesmen, who are thereby deterred from accepting appointments in this country. The dignity and emoluments attached to high office in India would be sufficiently attractive to public men, if they were not accompanied by conditions which detract materially from their value. The objections against Calcutta are not exaggerated: a long series of broken-down constitutions and premature deaths cannot be reasoned away. When the question was discussed twenty years ago, it was shown that of the three immediate predecessors of Sir John Lawrence, one died in India, and two only survived to reach home; that Mr. Wilson died in his first year of office, and his successor, Mr. Laing, was forced to return to England in broken health the year after he came out. The High Court is not without its painful statistics of death and disease. Nor is the maintenance of Calcutta as the seat of Government called for by any considerations of State necessity or policy. The weightiest reasons for its retention are that it is the ancient seat of British Empire, it is connected with old associations, and a removal would involve heavy expenditure. All these arguments were for years urged against the removal of the courts of law from Westminster Hall, and yet that removal has at last been accomplished. If capital be taken to mean the actual seat of Government, Simla has now been an alternative capital for fifty-six years. Had Lord Elgin lived, he would never have visited Calcutta again, though three years of his term of office were still left. The theory that Calcutta was the capital, was, for a long time, preserved only by a fiction,

and a fiction so transparent that, but for the proverbial fascination and vitality of legal fictions, it is surprising any body was blinded by it. The Governor-General's Council remained there under a president, invested nominally with the full powers of the Governor-General in Council. In point of fact, however, a division of business was made between the Governor-General in the Upper Provinces and the President in Council at Calcutta, on the principle of leaving to the latter all business which was of a simple, routine or common place character. Every thing which was of importance went directly to the Governor-General.

This part of our subject may be fitly concluded by an extract from a minute written by the late Sir Henry Maine in 1868 :—

"Discomfort and disease have so long been the conditions of official life in India, and so much admirable work has been done under those conditions, that there is a disposition in some minds to regard them as indissolubly associated with the good government of the country. Yet surely, in settling the question of the capital, it is unreasonable to leave out of account the discovery made thirty or forty years ago, that Nature has been less unkind to us than had been supposed, and that within the geographical limits of India there are climates in which the English race retains or regains its native vigour. I quite understand the necessity of guarding against the temptation to over-rate the value of these climates, and to under-rate the difficulty of utilizing them. Yet there may be prejudices of the opposite kind, and the censors of resort to the hill climates should be sure, that unconsciously they are not arguing as a conservative of the Spanish Indies may have argued against the use of the Jesuits' bark in fever, as a practice in itself effeminate, and calculated to excite *ill feeling in those who could not afford to purchase the new drug*. . . . There is no economy which a Government can practice like the economy of its servants' health and nerve ; it may be compelled to expend them on mere resistance to unfavourable physical conditions, but if it goes an inch beyond absolutely necessary expenditure, it is guilty of the most foolish form of prodigality"

Sir Henry Maine mentions that Lord Elgin had intended to assemble in the cold weather following his death both the Executive and Legislative Councils in the neighbourhood of Lahore ; and had this idea been carried out, it is probable that each of the great Native cities would have been visited in turn. In this way the Supreme Government would have become peripatetic. "If," said Sir Henry Maine, "it be objected that there is no example of such a Government, I answer first, that the fact is not so, since almost all Governments originating in the conquest of hot countries by persons born in a cooler climate have been, as a matter of fact, more or less peripatetic, and that, even if the objection were well founded, the British Empire in India is too novel and

extraordinary an experiment to be dependent on any precedents, except those which its own experience furnishes."

#### VIJ.—DISCUSSION OF BUDGETS.

It has been announced during the present year that there is to be a fuller and freer discussion of the Budget "under certain restrictions." What those restrictions are to be, is not yet known to the public, but it is said that the Home Government is in perfect accord in the matter with the Government of India, and that a Bill will be passed to legalize any alteration of the present system.

Some explanation of the present system seems here to be called for, because it is doubtless not generally known, that even this system is not strictly in accord with the provisions of the Indian Councils' Act (ss. 19, 29, and 38).

"No business shall be transacted at any meeting for the purpose of making laws and regulations \* \* other than the consideration and enactment of measures introduced into the Council for the purpose of such enactment; and it shall not be lawful for any member or additional member to make, or for the Council to entertain any motion, unless such motion be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereto." Sec. 29 enacts that the additional members are to be members of the Council, "for the purpose of making laws and regulations only."

It was stated by Sir Charles Wood that one of the objects of these provisions was to prevent the Legislature from interfering with the functions of the Executive Government, and occupying its time with matters which are not directly or immediately connected with the special duties assigned to it. The Duke of Argyll said that the evils of the system established in 1853 was, that there was a tendency on the part of members of the Council to interfere with the executive acts of the Government. The grave complications which had occurred in the Governor-General's Council prior to 1861, owing to the unseemly arrogation of authority by certain of its members, had become a matter of notoriety, and hence the precision and stringency of these provisions to give effect to the deliberate intention of Parliament, that the Legislative Councils should not exercise any administrative functions whatever, or have any voice in the Executive Government of the country.

While the law\* remains as it is, no statement or discussion of the Budget in Council can be legal, unless it have reference to some measure introduced, or to be introduced, into the Council for enactment. If any Bill involving the slightest alteration of taxation be introduced—if even the Income Tax Act had

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\* 24 and 25 Vic. c. 67, ss. 19, 38.

to be annually renewed as was formerly the case—a public financial statement and discussion would be legal. As a matter of practice, however, the Financial Minister makes his statement publicly, and this evasion of the Act has the sanction of the Secretary of State. Possibly Local Legislative Councils might be permitted to evade the Act in the same way, but they have not done so hitherto. If publicity is what is aimed at, it can be attained with equal certainty and less inconvenience by sending the Budgets to the press. They will thus obtain the widest publicity, and evoke (or at least afford an opportunity for) criticism from every class of the community. If it is desired to give an opportunity for discussion to the non-official additional members of Council, it should be borne in mind that this would do away with the power of the Governor-General, or a local Governor, to prohibit the discussion of topics which he considers undesirable, and so materially alter his position as regards his Council. It can hardly be desirable that the Legislative Councils of Madras, Bombay, Bengal and the North-West Provinces, should acquire a definite right to discuss and criticise the whole executive business of their respective Provinces in so far as they involve questions of finance. Their doing so might put the Supreme Council in a very false position. The value of criticism is much diminished when it proceeds from an irresponsible body; and it cannot be too clearly kept in mind, that additional members of the Legislative Council are absolutely irresponsible for their acts or the consequences of their acts. They can neither be removed during their tenure of office, nor be held answerable for aught they do. It is anomalous and contrary to all sound principle to invest a body thus constituted, thus irresponsible, and without even a representative character, with the power to discuss, modify, and perhaps overrule the whole executive policy of the Government. "Parliamentary responsibility," it has been remarked by Sir James Stephen, "arises from the fact that the man who is to-day in opposition may be to-morrow in power, and may then be obliged to act up to the principles which he has advocated when in opposition. This can never be the case in India. If Government were in a minority, it would not have to go out, nor would those who had succeeded in turning it out come in their turn. In this state of things it is obvious that the criticism of additional members is emphatically irresponsible. It is the criticism of persons who can never be called upon to apply their own principles to practice."

As a matter of fact, the proceedings of Legislative Councils in India are marked by a considerable degree of formality coupled with the utmost publicity. This formality, and this

publicity may not have been altogether contemplated by the Councils' Act of 1861, but *quod fieri non aebuit, id factum valet*. It is too late to go back now. One of the chief objections taken by the Marquis of Dalhousie under the Act of 1853 had reference to the formality and publicity of its debates. Lord Canning was of opinion that the business of the new Legislative Councils should be conducted as in a committee or commission, and not in the form of a set Parliamentary debate ; and in the discussions which preceded the passing of the Act of 1861 in both houses of Parliament, reference was frequently made, mostly in terms of condemnation, to the numerous standing orders made by the Legislative Council of 1853, and the unwisdom of converting the Councils into petty mock Parliaments was constantly dwelt on. Yet, no sooner was the Act of 1861 brought into operation, than arrangements were made in each Council for prescribing forms of procedure very similar to those observed in other legislative assemblies ; the proceedings were practically thrown open to the public, the admission of reporters was allowed, and all this was done under the authority of standing orders, which received the sanction of the Secretary of State by whom the Act was introduced. The fact is that Parliament endeavoured to reconcile two things which were irreconcilable, namely, the informality of procedure which obtains in a cabinet or committee (the proceedings of which are either strictly private, or if published, are published in an abstract form, or in the form of a report stating the *result* of the committee's deliberations), and the publication from day to day of the speeches delivered, and the remarks made, by the members of a Council. Lord Canning did not contemplate this latter arrangement, and it may be inferred from the opening speech of Lord Halifax in introducing the measure of 1861, that his views on this point coincided with those of Lord Canning ; but when the question of the daily publication of the proceedings of the Council was raised in the House of Commons, the reply of the Secretary of State was to the effect, that this matter would be left to the discretion of the Governor-General. As we know, the result has been that the debates in the Indian Councils are published from day to day, and that the official reports of them are as full and detailed as Hansard's. The only trace that the reports bear of what appears to have been originally contemplated, is that they are headed "Abstracts of the Proceedings of the Council," the fact being that they are in no sense abstracts, but are full and complete reports.

This matter has been gone into at some length in order to show that the original design of the framers of the Councils' Act has already been widely departed from in one very important

point. In truth, the submission to the Legislative Councils of Budgets dealing with the finances of the country, whether imperial, or provincial, or local, is an arrangement which, so far as can be gathered from the debates, was not contemplated by the framers of the Act of 1861. Nevertheless, during the whole of the period which has since elapsed, the exposition of the financial measures of the year before the Council of the Governor-General has been an event of annual occurrence. These Budgets are not voted on by the Council, but they are liable to be subjected to criticism of a searching character in debates which are forthwith published and circulated throughout the country. And not only is there, on these occasions, a general exposition of the financial position of the Empire, but the several members of the Executive Government deliver expository statements of the operations of the several departments under their charge, which are similarly liable to comment and criticism from the other members of the Council. It is not only, then, in the form and publicity of the debates, but in the nature of the subjects brought under discussion, that there has been, in practice, a departure from the avowed intention of the framers of the Act of 1861.

In order to enable Local Governments to deliver themselves of "financial expositions" analogous to those in the Governor-General's Council, it was at one time proposed that an Appropriation Bill (the schedule of which would consist of the Budget) should be annually introduced, thereby enabling members, without any contravention of sec. 38 of the Councils' Act, to discuss each item. As might have been expected, this proposal was not considered advisable or even possible. The passing of the Appropriation Bill in the House of Commons is a proceeding by which authority is given to carry into effect the resolutions of the House passed in Committee of Supply, which, till the passing of the Appropriation Bill, are not law. The Bill enumerates every grant that has been made during the whole session, and authorises the several sums voted by the Committee of Supply to be issued and applied to each separate service. It also contains a provision that the various aids and supplies shall not be issued or applied to any other uses than those mentioned. It is obvious that such a proceeding would be utterly out of place in India, and would have the effect of removing from the Executive to the Legislative Council the power of disposing of public monies.

#### IX.—PUBLICITY OF INDIAN LEGISLATION AND OPPORTUNITIES FOR PUBLIC CRITICISM.

It may safely be affirmed that there is no country in the world in which the public have such opportunities of having their

say regarding pending legislative measures as in India. In no other country are Bills made so accessible to the public, or at least to that portion of the public which has either the desire or the ability to criticize.

A Bill of the Supreme Council, together with a statement of its objects and reasons, is published in the *Gazette of India*. If the Bill is of any importance to the public, or any section of the public, it is also published in such vernacular languages as the Council may direct. Then the Select Committee's report must not be made sooner than three months from the date of the first publication of the Bill. Again, if a Bill is much altered in Select Committee, it is often republished in its altered form. In fact, publicity in India has been pushed to such an extraordinary length, that it has been accurately remarked, that it is a man's neglect alone which can prevent him from being in a position to consider any Bill on which he desires to form an opinion. The Government of India have brought the horse to the water, but they cannot make him drink.

In this matter as in many others, the Government, being a bureaucracy, goes out of its way to avoid the imputation of legislating in an autocratic, bureaucratic or despotic manner. In theory, the vernacular translations of Bills are supposed to reach the native community at large; but those who are conversant with the administration, know that they only reach the comparatively educated few,\* who would much rather have the English Bill than the vernacular. Even this small section often finds itself quite incompetent to criticise the scope and details of measures. In England no one dreams of inviting the opinion of every farmer or parish vestry on a measure dealing with land tenure, or codifying the criminal law. Only experts are consulted, as only experts could give an opinion worth having. In India, on the other hand, every provision is made for securing, or trying to secure the opinions of all sorts and conditions of men, of persons who in many instances have no opinion to offer, the subject-matter being altogether outside their ken. As to the people as a body, they are not reached by the vernacular Gazettes, nor is there any necessity to reach them in this manner. Even in European countries, no attempt is made, even by their Parliamentary representatives, to ascertain their opinions in nine cases out of ten; indeed, in many instances,

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\* What I mean is, that they are not wanted. A Mukhtar could get the vernacular translation, if he wanted it. But, as a matter of fact (excepting, perhaps, important subjects, such as landlord and tenant) criticism of a Bill in progress is a thing not "dreamt of in the philosophy" of even the more educated class.

the Parliamentary representative himself might not have any opinion, or at any rate not one worth hearing. But though the people in India are not reached by the vernacular Gazettes, it would not be true to say that the *vox populi* is untapped. It is tapped in a very few matters (e.g. tenancy legislation) by Pleaders and Mukhtars; but the principal tappers are the Magistrates and Collectors of districts, known as District Officers. This will be illustrated below.

In England the Government takes no direct steps to make the Bills before the legislature known to the public. They are not published in any Gazettes or newspapers. If a country gentleman wanted to read a particular Bill, he would have to write and get it from Messrs. Eyre and Spottiswoode, the Queen's printers in London. But it will perhaps be said that the public are made acquainted with pending or proposed legislation through the medium of the press. This is by no means always the case. A good many Bills of importance are passed into law which are not even so much as noticed by the press. Let me instance a most important Act, dealing with Criminal Procedure in Scotland, passed in the session of 1887. Mr. Ilbert, when he was Legal Member, had occasion to remark that Lord Cairns' Conveyancing Bill was criticized by no one outside the rank of professional lawyers, and by very few of them. His Settled Land Bills, which affect the position and powers of landed gentry throughout the country, met with little or no outside criticism. The Criminal Code Bill has been on the anvil and before the public for years; but the press has not taken the trouble to master its provisions. In India, when the legislature has under consideration subjects such as Trusts, Easements, or the Transfer of Property, on which only experts can give valuable opinions, the public are not merely invited, but they are almost forced to give their opinions. Even the most enlightened public bodies, such as the British Indian Association, have been unable to show a complete comprehension of such measures. The daily experience of the courts show that such acts are misapprehended even by native professional lawyers: and the absurdity of expecting valuable criticisms from ordinary laymen, native or European, hardly requires demonstration.

The remarkably "popular" character of Indian legislation is seen in the rule that *anyone* may address the Legislative Council regarding any pending Bill. The communication may be addressed, either in the form of a petition to the Governor-General, or in a letter to the Secretary. *Such communications are actually circulated to members of the Council!* Any more popular and democratic provision it is impossible to conceive. It must be borne in mind that Local Governments



are always consulted, and this means that a large number of administrative officers are consulted, as also the Bench and the Bar. Moreover, numbers of public Associations, recognized by the various Local Governments, are also invited to express their opinions. The result has been that the Legislative Department has at times been almost overwhelmed with masses of voluminous comments, which naturally contain a good deal that is worthless. Of late years Local Governments have been compelled to consult only selected officers : but in measures of great importance, all officers are consulted. As long as the rule remains in force that all communications must be circulated to members of Council, it is obviously essential that the bulk should not be needlessly increased, so as to prevent the wheat from being lost among the chaff. Congress orators have not realized what a *Magna Charta* the people of India possess in the right of the meanest subject to address and petition the Legislative Council, and to give his opinion on any pending legislation !

\* O fortunati nimium, sua si bona norint !

It has been remarked above that the *vox populi* is principally tapped by the Chief Executive Officers of Districts. All Local Governments are consulted by the Government of India. The former again call for reports from their executive (and in the case of legal measures, judicial) officers, and so the word is passed right along the line of the official hierarchy until it comes down even to the humble village Chokidar (policeman); and not only is information and criticism called for after the introduction of a Bill, but this is often done when it is merely proposed to legislate on a particular subject, and it is desired to ascertain whether it is necessary to legislate at all, and if so, on what lines. Let me give the most recent instance of this : The Government of India are considering the advisability of legislating about lepers, and a report has been called for as to whether leprosy has increased, and whether lepers are in the habit of annoying villagers by soliciting alms in a threatening manner or otherwise, and so on. Every District Officer has been called on for a report regarding his own district. He consults his Sub-Divisional\* officers and District Superintendent of Police. The latter calls for reports from the Sub-Inspectors in charge of every thana (Police Station), and these latter get information from the village chokidars about every single village in their jurisdictions. The Government of India and local legislatures thus have no difficulty in procuring a mass of accurate information on any possible subject.

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\* Districts are generally divided into several Sub-Divisions.

In this way a rough census of lepers has been taken, and the feeling of the people in regard to them ascertained. And this is done through an agency familiar to the people and without any difficulty or special arrangements. The legislation of the Government of India is based on complete and accurate information, subjected to criticism and discussion by administrators of ripe practical experience.

The treatment of lepers is, no doubt, a question on which the meanest cultivator might have an opinion. Let us take the case of measures, which it would require some intelligence and education to criticise, such as the amendment of the Code of Criminal Procedure, or a Bill dealing with the relations of landlord and tenant. The vast mass of opinions and criticism on the Bengal Tenancy Bill, (passed as Act VIII of 1885) has surprised English lawyers. Apart from official opinion, all classes gave their opinions, Pleaders and Mukhtars, Zemindars, Middlemen, Mahajans and cultivators. Besides the large Associations which are consulted direct by the Bengal Government,\* District Officers consulted every local body or petty Association in their districts. Sub-Divisional Officers convened special meetings at their houses, at which many of the provisions of the Bill were discussed by their own Amla, (ministerial officers), Mukhtars, petty educational officers,

\* The following is a complete list of the Associations in Bengal recognized by the Government :—

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|---|---|
| 1. European and Anglo Indian Defence Association, Calcutta. | 19. Mymensingh Barnch Indian Association                      |
| 2. Briush Indian Association                                | 20. Mymensingh Landholders' Association.                      |
| 3. Eurasian and Anglo-Indian Association.                   | 21. Burisal People's Association.                             |
| 4. National Mahomedan Association.                          | 22. Islam Association, Chittagong.                            |
| 5. Mahomedan Literary Society.                              | 23. Chittagong Association.                                   |
| 6. Suburban Rate-payers' Association.                       | 24. Bar Association, Noakholly.                               |
| 7. Jessore Indian Association.                              | 25. Tipperah People's Association.                            |
| 8. Moorshedabad Association.                                | 26. Behar Landholders' Association, Patna.                    |
| 9. Baranagore Rate-payers' Association.                     | 27. Indigo Planter's Association, Mozufferpore and Chumparun. |
| 10. Burdwan Association.                                    | 28. Bhagulpore Landholders' Association.                      |
| 11. Uterpara People's Association.                          | 29. Orissa Association.                                       |
| 12. Bali Sadharani Shaba.                                   | 30. Balasore National Committee.                              |
| 13. Seebpore Rate-payers' Association.                      | 31. Serampore Mofussil Association.                           |
| 14. Rajshahye Association.                                  | 32. Rohora Patriotic Association.                             |
| 15. Bogra People's Association.                             | 33. Santipore Rate-payers Association.                        |
| 16. Dacca People's Association.                             | 34. Howrah People's Association.                              |
| 17. East Bengal Landholders' Association.                   | 35. South Barrackpore Rate-payers' Association.               |
| 18. Furreedpore People's Association.                       | 36. East Bengal Association.                                  |
|   | 37. Krishnagar Rate-payers' Association.                      |

landholders and others. Even Chokidari punchayats\* were in some districts invited to express an opinion. But this Bill was an exception. For a whole decade it had been proposed and intended to pass some remedial legislation in favour of the Bengal cultivator, so that landlord opinion was on the *qui vive*, and the forces of landlordism were strongly arrayed against the Bill. It was, perhaps, for this reason that officials felt compelled to take unusual steps for ascertaining the opinions and wishes of the cultivators themselves.

It is the same with Local Councils. If the records of the Bengal Council be referred to, it will be seen that, upon every local measure of importance, there has been a full and free expression of native opinion. Moreover, native opinion is sounded on any questions of importance on which legislation is likely to become necessary. There can be no harm in my adducing the most recent instance: It has been recognized that Municipalities and District and Local Boards are everywhere crippled for want of funds, and therefore cannot effect any great improvements. The Government thinks that the only solution of the difficulty is local taxation for local needs. In this connection suggestions have been made, that the question of tolls on roads and bridges might be reconsidered, and also that of the imposition of octroi duties in Municipalities. On these subjects District Officers have been asked *not to give their own opinions*, but to ascertain enlightened *non-official opinion*. Probably in no country in the world is so anxious a desire manifested to legislate in accord with the wishes and sentiments of the people. This is, in a measure, owing to the fact that the Legislatures are official legislatures. Of the official legislators it may certainly be said that they are disinterested men, having no party to represent, with no desire but to benefit the country and the people, and do justice between class and class.

As might have been expected, the desire of the Government to give the utmost publicity to its legislative measures, (whether as Bills or Acts) has far outstripped the necessities of the case. It was hardly necessary to translate such Bills as the Transfer of Property or Easements Bill at all. As has been remarked, the few natives competent to give an opinion on its provisions would know English, and would actually prefer to consult the English original. And yet not only was this Bill published as first drafted, but it was again and again published as it underwent alterations. *Bill No. V, which was a very modified form of Bill No. III, was published in the following vernaculars: Urdu, Bengali, Ooria, Hindi, Tamil, Malayalam, Telugu, Kanarese, Mahratti, Guzerati!* Naturally all

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\* The agency appointed in each village or Union under Act VI, 1870, B. C., which assesses and collects the tax for the maintenance of the village Police.

this expense was incurred for nothing; the only criticisms received were received in English. Measures of this technical and abstract character cannot be translated into the vernaculars in a satisfactory and intelligible manner. Highly educated natives aver that they find it impossible to convey in the vernacular the technical shades of legal meaning by mere translation, or by anything short of exposition, and that although to a man knowing English, and sufficiently acquainted with the English original, the vernacular translation *might* be intelligible, yet even such a man would prefer to refer to the English version. Urdu is the most polished and widely spread of the vernaculars of India, and constitutes, indeed, a sort of *lingua franca*. Yet even the translations in Urdu are often unintelligible and so full of inaccurate renderings, that it is no wonder that vernacular translations of technical Acts can hardly be understood even by native lawyers. As to Bengali, Ooria, Hindi, and Mahratti, the translators have had to have recourse to Sanskrit words to supply an equivalent for some of the English terms,—words, which to the mass of the people, are as incomprehensible as the English itself would be. So an Englishman of the reign of Henry VII, having to translate the present Italian Code of Commerce, would resort to Latin.

During the Viceroyalty of Lord Ripon, a laudable, but as events have proved, a futile attempt was made to make Bills and Acts even more accessible to the public than they had hitherto been. As regards the great codifying Bills in connection with which the question of publicity had arisen, both the Viceroy and his Legal Member recognized that, no matter how clearly they might be drafted, they were of such a nature that, even with the aid of the fullest explanations, none but experts could hope to master their contents sufficiently to offer any useful criticism on them; that similar measures met with little or no criticism in England outside professional circles, while in India, the prospect of obtaining useful criticisms was much diminished by the difficulties of translation above referred to. But, as regards legislation generally, it was desired to give the public the utmost opportunity of criticizing Bills in progress, and also to distribute measures passed into law as widely as possible.

The first aim of the Government was to give the Press all the information in its power as to the object and necessity of any proposed legislation. It was, therefore, decided to publish a fuller and more popular Statement of Objects and Reasons, showing why a particular measure was required, and giving a short history of the circumstances which had led up to it, and an explanation of the effect it was likely to have on the subject matter and on the people. Pains were to be taken to make the statements as clear and intelligible as

possible to the ordinary unscientific mind ; and when the Bill had been brought in, the Bill itself and the Statement of Objects and Reasons, and (when this appeared desirable) the speech made by the member in charge in moving for leave to introduce it, were to be separately printed on cheap paper, so as to be available (with the vernacular translation), to the Press and selected public bodies. These were further to be sold at a low price to the public. They were to be procurable at all District Cutcheries throughout the country. Moreover, in order to encourage comments from the press, English and Vernacular abstracts of, or if necessary, full extracts from newspaper articles were to be circulated to members of the Legislative Council. Moreover, if the publication of any Bill in the vernacular was ordered, the Select Committee were always to state in their report the date on which the Bill had been published in such language, so as to ensure that the native community had had time to see and consider the Bill. It had been found that some delay occurred in bringing out translations of Acts passed, and it was therefore decided, whenever practicable, to allow an interval to elapse between the date at which an Act is passed and the date at which it is brought into operation, so as to allow of sufficient time for the preparation and issue of translations and for the preparation, issue, and due publication of the rules, without the help of which so many Indian Acts cannot be brought into effectual operation. At the same time it was not intended to prevent very short and simple, or very urgent Acts from being brought into force at once.

As regards the sale and gratuitous distribution, in a cheap form, of English and vernacular copies of Bills, Statements of Objects and Reasons, Reports of Select Committees, Debates, and Acts, it was settled that each local Government should make its own arrangements. The price of English copies was almost nominal, being only three pies per sheet of four pages, the rate decreasing if there were 64 pages or more. The whole set of papers published in a year was also made available to annual subscribers at the rate of *only two rupees*, exclusive of postage. The papers were to be printed by the Superintendent of Government printing at Calcutta or Simla. At the same time special arrangements were made in the Legislative Department to issue Urdu or Hindustani translations of Bills and connected papers and Acts, and also transliterated versions of the same in the Nagri character. All these papers, in English or a vernacular, were to be obtained *at all Cutcheries throughout the country* ! It comes to this, then, that every trader, artisan, and peasant in the country had the Bills and Acts of the legislature almost brought to his very door, for in India, broadly speaking, almost every peasant, and certainly every peasant who would be likely to require a copy of an Act, has

occasionally to go to the District, or Sub-divisional, or Munsif's Cutcherry. The nominal price was intended to act as a sort of guarantee that the papers were required and not asked for from pure wantonness. In the same way missionaries, who preach in the bazars and villages, demand a pice for tracts, or the vernacular translation of a gospel, just to impose some sort of check on the wanton spoliation of their stock.

The Scripture tells us not to cast pearls before swine, and the Government of India, as might have been expected, failed in an attempt to secure universal criticism, such as no civilized country in the world has ever dreamt of making. As the sequel showed, the parturition of mountains brought forth a very ridiculous mouse. Year after year Bills and Acts and translations were made available for sale at the Government Cutcherries, and year after year the sales, at many places, were *nil*, while those in the most advanced districts were infinitesimal. In fact the whole business turned out to be such a monstrous farce, that in September 1888, the Legislative Department of the Government of India wrote and informed all local Governments that the supply of reprints and translations for *sale* would be at once discontinued, and asked whether, and to what extent, such supply for gratuitous distribution should be curtailed. The Collectors of districts in Bengal have reported that the documents are not merely unsaleable, but are not required, generally speaking, even for gratuitous distribution. The people in India have had opportunities of making themselves acquainted with, and criticising pending legislation, such as no other Government in the world has thought fit to grant. Fancy copies of Bills being available for sale in every booksellers' shop in small country towns in England! Even Justices of the Peace hardly ever see an Act, except the few they have to administer, much less a Bill. Imagine Bills being distributed in England by Government agency to petty attorneys, shopkeepers, farmers, and labourers, and yet this is what the Government of India has seriously attempted! Such ultra-Radical benevolence in an Oriental country indeed takes one's breath away.

The facts in connection with this subject cannot be too clearly demonstrated, because Government is sometimes blamed by men who are educated enough to know better. Errors regarding the action of the Government in India are Protean in their variety, and possess the vitality of a hydra. I have therefore considered it necessary, in the interests of truth, and in vindication of the Government, to lay bare the incontrovertible facts. The importance of the subject is a sufficient excuse for my reproducing *in extenso* a return submitted from one of the largest, and certainly not one of the least important districts in Bengal. These statements were called for from every district :—

Statement showing the number of Printed Acts received and sold during the year 1888-87.

DISTRICT.	Description of Acts.	NUMBER.		Price per copy.	Number sold.	Value realized.	Number of copies remaining to be sold.	REMARKS.
		Balance of last year.	Received during the year.					
	Marriage Validation Bill, in Bengali	16	.....	Rs. A. P.	...	...	16	
	Indian Salt Act Amendments Bill, in Bengali	16	.....	0 0 3	...	...	16	
	Transfer of Property Bill	16	.....	0 0 3	...	...	16	
	Telegraph Bill of 1884, in Bengali	16	.....	0 0 3	...	...	16	
	Bill to provide for the Registration of Permanent Tenures, in Bengali	16	.....	0 0 6	...	...	16	
	Bill to repeal part of Section 6 of the Indian Trade Act, 1882 and to amend the Excise Act 1881 and the Bengal Excise Act 1878, in Bengali	16	.....	0 0 3	...	...	16	
	Indian Sea Passengers' Bill, 1884	16	.....	0 0 3	...	...	16	
	Bill to enable the Commissioners of the Port of Calcutta to provide Docks	16	.....	0 0 3	...	...	16	
	Buths, Deaths and Marriages Registration Bill, in Bengali	16	.....	0 0 6	...	...	16	
	Bill to amend Bengal Act III of 1879, in Bengali	16	.....	0 0 3	...	...	16	
	Canongoes and Patwari Bill, in Bengali	16	.....	0 0 3	...	...	16	
	Indian Contract Amendment Bill, in Bengali	16	.....	0 0 3	...	...	16	
	Land Acquisition (Mines) Bill 1885, in Bengali	16	.....	0 0 3	...	...	16	
	Report of the Select Committee, and the Bill to enable the Commissioner's of the Port of Calcutta to construct Docks, in Bengali	16	.....	0 0 3	...	...	16	
	Bill to regulate Ferries in Bengal, in Bengali	16	.....	0 0 3	...	...	16	
	Indian Registration Bill, 1885, in English	2	.....	0 0 3	...	...	2	
	Indian Tramways Bill, 1885, in English	1	.....	0 0 9	...	...	1	

A Bill rendering it necessary to the members of the Mahomedan community to declare themselves subject to the Mahomedan Law, in English ...	3	.....	0	0	3	...	...	...	3
The Provincial Small Cause Court Bill, 1885, in English ...	2	.....	0	0	3	...	...	...	2
The Income Tax Bill, 1886, in English ...	0	.....	0	1	3	...	...	...	0
The Debtors' Bill, 1886, in English ...	4	.....	0	1	0	...	...	...	4
Indian Bankruptcy Bill, 1886, in English ...	4	.....	0	6	0	...	...	...	4
The Guardians and Wards Bill, 1886, in English ...	4	.....	0	1	9	...	...	...	4
Suits Valuation Bill, 1886, in English ...	4	.....	0	0	3	...	...	...	4
Criminal Procedure Code Amendment Bills, 1886, in English ...	4	.....	0	1	0	...	...	...	4
Native Passengers Ships Bill, 1886, in Bengali ...	13	.....	0	0	0	...	...	...	13
Bill to abolish Military Courts of Requests as established by the Indian Military Law ...	13	.....	0	0	0	...	...	...	13
Invention and Design Bill, 1887, in Bengali ...	10	.....	0	0	6	...	...	...	10
Indian Marine Service Bill, in Bengali ...	13	.....	0	0	6	...	...	...	13
Bill to amend the Indian Stamp Act, 1879, in Bengali ...	13	.....	0	0	6	...	...	...	10
Bill for the Protection of Game, in Bengali ...	10	.....	0	0	3	...	...	...	6
Inland Bonded Warehouse Bill, in Bengali ...	6	.....	0	0	3	...	...	...	6
The Metal Tokens Bills, in English ...	6	.....	0	0	9	...	...	...	2
Measures of Length Bill, 1881, in English ...	2	.....	0	0	3	...	...	...	2
The Probate and Administration Bill, 1888, in English ...	2	7	0	0	6	*5	...	...	2
The Succession Certificate Bill, in English ...	0	7	0	1	6	5	...	...	2

Memo. No.  
Submitted to the Commissioner of the Division.

MAGISTRACY,  
The 1st May 1889.

Magistrate.

\* Distributed to annual subscribers as well as to others gratis.



It will be seen that *only five* copies each of the Probate and Administration Bill and the Succession Certificate Bill were disposed of, and the note in the column of remarks shows that *these were not sold, but distributed gratis!* I find from the correspondence relating to this district, that the three principal men of the district are shown as subscribers, but apparently the copies were foisted on them *nolentes volentes*, as the sheristadar notes, in a somewhat naive Hibernianism: "These three are regular subscribers, *but they have never paid yet!*" Such, then, was the ludicrous anti-climax of the grand project for eliciting the opinions of all classes, even down to the school-master, the blacksmith, the Mukhtar, the cultivator, and the landless labourer, on Bills dealing with such matters as Taxation, Valuation of Suits, Native Passenger Ships, Inventions, Marine Service, Probate and Administration, Succession Certificates, Bankruptcy, the Port of Calcutta, Easements and Transfer of Property.

The British Government in India has enemies even among those who eat its bread and salt, and this renders the guidance of the ship of State all the more difficult; but while steering clear of the Scylla of conservative prejudices and opposition to all reform, it should take care not to be sucked in by the Charybdis of radical nostrums. They should view with suspicion the so-called panaceas propounded by philanthropical and irresponsible theorists, and act on the advice of disinterested administrators, who possess long practical experience of the country, and only desire the real welfare and happiness of the people.

#### X—REAL AND EFFECTUAL REPRESENTATION OF ALL CLASSES.

It will be seen, then, from what has been stated above, that to all intents and purposes, the masses are represented in the most effectual manner possible in the Legislative Councils of the country. They are not only represented by the administrators who live among them, and whose duty it is to report to the Legislature on any measures affecting their interests; but the official members of the Legislative Councils are also their truest and best representatives.

As regards greater representation in the Councils, it would be impossible to increase the number of non-official members so as to represent all classes without swamping the official element. This means that the character of the Legislature would be radically altered, and the constitution, as it now exists, subverted. If a number of non-official members be added, they must be added as assessors, entitled to give opinions only, but not votes. But what would be the result

of increasing the number of non-official members, whether entitled to give opinions only, or votes? It would most assuredly result in a greater representation of a few classes (in Bengal, principally the zemindars and the lawyers), and a smaller representation of the masses. It has been very truly remarked that the best representation of the interests of the country and the people as a whole, is the official, and not the non-official member. The official represents all classes. One official may sympathise with the ryots to a greater extent than another : but no official can be called a partisan. They all do their best to legislate justly and hold the scales evenly between class and class. But non-official members avowedly represent some particular class or interest, ordinarily that to which they themselves belong. They are often pledged to support certain views, and to vote accordingly. The result of increasing the non-official element would be, to increase the representation (I speak of Bengal) of the landlord and lawyer classes, and possibly also of the English mercantile class. In any tenancy legislation, such a result would be most detrimental to the interests of the tenantry. In the passing of the Bengal Tenancy Act, the non-official members, broadly speaking, fought for the landlord interest ; had the ryots been represented by such members in the Council, the Act would have been more favourable to the tenant. Not that the Act is not favourable in many respects to the tenant, but that fact is due to the determined efforts of disinterested official members. Additional native members must be men of some position and rank, and such men would naturally favour the landlord interest, while experience has shown that, in matters of taxation, they will favour those measures which press more hardly in proportion on the poorer classes than on the wealthier. I may note as a signal instance, the readiness displayed to increase the salt duty rather than impose taxation on land or personal incomes.

Surely the experience of England and other countries has been just the same. It is not so long ago that the first real representative of the working man was returned to the House of Commons. And when even a working man has acquired some position and wealth, his opinions and sympathies will naturally veer round a little in favour of the classes among whom he finds himself thrown. In Bengal the pleader class would, broadly speaking, be in favour of the interests of the Zemindars. In the first place, a pleader of any position and practice is generally the agent of one or more Zemindars, whose payments constitute a substantial part of his income. Secondly, as they acquire money, pleaders invest it in land, and so become part and parcel of the land-owning classes. The same may be said of retired members of Government services,

including Ministerial officers, who generally invest a substantial portion of their earnings in land. The sympathies of young Munsifs and the new class of competition Deputy Collectors is (at any rate before they have had time to acquire land) to a considerable extent with the ryot, but young Munsifs and Deputy Collectors are not made members of the Legislative Councils. European non-official members are mainly appointed as the representatives of the mercantile interest, the planting community, and generally of the non-official European class.

It is manifest, then, that the best and truest representatives of the interests of the country and the people as a whole are the official members. The number of non-official members might be increased, perhaps, if they are made into a purely consultative body, with power to report their opinion to Government. Even this would result in a larger representation of the wealthy and influential classes. But anything more might raise evils and difficulties which can hardly be said to exist at present. Even in elective Municipalities there is no real representation of the majority of the population. The control of the people is a pure fiction, except in one particular, and that is, that Municipal Commissioners are sometimes elected on the distinct pledge that they will do their utmost to reduce the rates,\* and oppose any measure of improvement that might tend in the opposite direction. Possibly hot advocates of local self-government may regard this as a healthy and hopeful sign, that the electors are able to bring some influence to bear on their representatives. But the ordinary mind would probably regard it as a not very honorable index of unfitness for autonomy.

The evils indicated are possibly not peculiar to India,† though in India they are intensely aggravated by the fact, that the influential portion of the community is a microscopic minority, composed almost exclusively of a single class,

\* I see this fact is alluded to by the Bengal Government in the Resolution on the Annual Administration Report of the Patna Division for 1888-89, published in the *Calcutta Gazette* of August 1889.

† It is very nauseating to listen to some English apologists who, in their fondness for fouling their own nests, remark: "Oh! there is just as much corruption in England among municipal and Local Boards." Granted for the sake of argument, that there has been in some instances. To what is it due? To Government having relaxed its control. These apologists use a two edged weapon, and are hoist with their own petard. The Anglo-Saxon race is generally admitted to be firm, tenacious of purpose, honest, and truth loving. It has been accustomed for centuries to the principles and traditions of popular representation. If among such a race and under such conditions, a gradual extension of local autonomy and power has produced corruption and other great evils, may not a reasonable man hesitate and doubt whether such boons should be foisted, in an intensified form, on an Oriental country?

while the masses are comparatively uneducated and ignorant. Some of the principal cities of England and America have suffered grievously from the Attic boon. There is a reaction in favour of official management, which has resulted in a very considerable amount of central control. In France and other great continental States, the towns and cities are improving, but those who are conversant with the details of their municipal administration, know that they are improving because the central authority with one hand grips the local body by the throat, and, holding a blunderbuss to its ear with the other, exercises that extrinsic moral influence, which apparently the law intended should be exercised by the District Magistrate, the Commissioner, and the Local Government in Bengal, but which, owing to the desire to show as partial successes even the most glaring failures and notorious collapses, is not, as a matter of fact, exercised. The fact is that in France and elsewhere, not only the capitals, but all the cities and large towns had more or less drifted from local self-government into something very different; there remains but a shadow and a fiction of the defunct principle of local administration. The only chance of the success of local institutions in India is, that all should not be praised alike, no matter how different their deserts. Those which have done their duty should be held up as an example for the imitation of those which have neglected it. If Badnugger is still permitted to enjoy the franchise, though it makes no improvements, wastes the rate-payers' money, and poisons them with bad air and water, of a surety Nekkugger will slide into the same evil ways, when she discovers that there is an utter absence of discrimination in the award of *Sirkdri* praise or blame.

But what if the evils, which are now confined to the parochial affairs of the Slocum-Podgers and Little Pedlingtons of Bengal, should be permitted to become rampant in matters affecting the imperial interests of British India! And will not such evils be caused by representative councils? The landlords of Bengal will send members pledged to abolish the road cess, and make up the loss by enhancing the salt duty pledged to facilitate evictions and enhancement of rent: the ryots will stipulate for the prohibition of all enhancement: Pleaders will return members pledged to support the various items of the Congress programme, and possibly to abolish all liquor-shops; while traders will stipulate for the repeal of the Income-tax. But, it may be said, if all classes are represented, justice will be done. To this it may be replied that all classes are, under the existing constitution, equally represented; but this would not be so if members were elected. The poorer classes, the masses of the population, would undoubtedly not be represented.

to the same extent as the wealthy and more influential classes. No one can allege that fair and equal representation would be possible. Some one class would command a majority, and they would ruthlessly impose their will on the minority. Such a Council might pass a measure rendering the position of the ryot worse ; could such a measure be passed in the Legislative Council as now constituted ? Certainly not. Unjust measures might be passed in the one, but not in the other. A member, pledged to support the interests of a particular class, would vote for a measure which might inflict injury on a thousand persons for every one benefited. Even now, it might be said, a non-official might do so. Certainly he might do so, but would he succeed ? No. Happily the Legislature is now so constituted that such a measure would have no chance of success. Again, the most necessary taxation might be refused, or it might be imposed in such a way as to give an unfair advantage to those classes unduly represented. The local Bengal Council, even as now constituted, with a large infusion of zemindars or zemindar members, would infallibly offer a strenuous, and possibly successful \* opposition to a local rate on the land for purposes of primary education and sanitation.

The propositions laid down above are borne out by the experience of many countries. They are, indeed, self-evident, and the argument requires no further amplification or illustration.

## XI. EXECUTIVE LEGISLATION.

It is very doubtful whether the Home Government will regard with favour any proposal for the enlargement of the Councils, or the introduction of the principle of representation. The debates in Hansard will show, that the Indian Councils' Act was at the time considered by many to be in some respects an ill-advised piece of legislation, and not altogether suited to India. *One remarkable result of the Act was to take away all power of Legislation from the Executive Government !*

The Executive Government used to legislate for the less advanced portions of the country. Had India been occupied by any other country than England, no doubt the Executive would have legislated for the whole country. But the English lawyer has an inveterate habit of thrusting his own principles and laws on countries utterly unsuited for them. The King's Courts, in their obstruction to the Governor-General and his Council, doubtless thought they were very fine patriots, preserving the undying principles of the English constitution

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\* The words "possibly successful" are explained by what has been remarked above as a peculiar feature of the Bengal Council.

from the inroads of another Charles. For the Executive to legislate would be almost as impious as for a Hindu to kill a cow! So it was that Legislative Councils were established for regulation territories. But the Executive Government continued to prescribe rules or laws for other parts of the country. Sir Barnes Peacock, mainly on the precedents of English constitutional law, and ignoring, or possibly being ignorant of the fact that there was, and had been such legislation in other countries, combated the legal correctness of the doctrine on which the claim to legislate "executively" was based.

The Government, however, continued till 1861 to act as if they possessed this power in respect of all the outlying and newly annexed Provinces. It may be remarked here that Lord Dalhousie would never have pressed for the establishment of a Legislative Council, unless he had unquestionably believed that his Government possessed the same legislative authority over non-regulation territory which the Crown exercises over Crown Colonies up to the moment of according to them distinct legislative institutions. In the debates on the Councils' Act in the House of Lords, the Earl of Ellenborough expressed some indignation at the dictum of Sir Barnes Peacock. He said: "The non-regulation Provinces were conquered countries, and it was the universal law that conquered countries, until they were regularly placed under the ordinary law of the country conquering them, remained under the direct authority of the Crown. These doubts were suddenly started in the Legislative Council by the Chief Justice, and it certainly was very extraordinary that, having acted as legal adviser to the Government for six or seven years in his capacity of Legislative Member of Council, he had never informed the Government he served of the illegality they were committing." Sir Barnes Peacock's opinion was probably wrong, but the Executive Government in India has sometimes to act on incorrect legal opinion. They did so in this case. It was held that, by the passing of the Indian Councils' Act of 1861, all legislative authority over non-regulation territory had been taken away from the Executive Government, while the force of law was given to all the rules which had been made in the belief that the authority existed. No doubt the intention of the statute of 1861 was that local Councils should gradually be established in all the provinces of India; but this was found to be impracticable. The result was, that no new law or rule required for any province other than Madras, Bombay, and Bengal Proper, could be sanctioned by any authority in India other than the Supreme Legislature.

As might have been expected, this position was found

extremely embarrassing and inconvenient. Indeed, the absolute denial of legislative power to the Executive Government, as regards the wilder and less civilized portions of India, was found to be not merely inconvenient, but dangerous. New situations arose, new combinations of circumstances presented themselves, feelings and actions arising out of ignorance, misapprehension, prejudice, or superstition required careful remedies, and yet the Executive were powerless to pass the new rules and laws required. Public opinion in England exacts from the Executive Governments of India the responsibilities of a despotism, and yet many of these Governments can do nothing without asking for a law from the Supreme Legislative Council,—a Council which is not directly responsible for the peace and good Government of the territories for which it legislates.

This state of things lasted for nine years, namely, from 1861 to 1870. In the latter year a more summary legislative procedure was provided by the statute of 33 Victoria, chapter 3. The preamble and first section of the Act are as follows :—

Whereas it is expedient that provision should be made to enable the Governor-General of India in Council to make regulations for the peace and good Government of certain territories in India, *otherwise than at meetings*, for the purpose of making laws and regulations, held under the provisions of the Indian Councils' Act, 1861, and also for certain other purposes connected with the Government of India :—

Be it enacted, &c. . . . as follows :

1. Every Governor of a Presidency in Council, Lieutenant-Governor, or Chief Commissioner, whether the Governorship, or Lieutenant-Governorship, or Chief Commissionership, be now in existence or may hereafter be established, shall have power to *propose* to the Governor General in Council, *drafts* of any Regulations, together with the *reasons* for proposing the same, for the peace and government of any part or parts of the territories under his government or administration, to which the Secretary of State for India shall, from time to time, by resolution in Council, declare the provisions of this section to be applicable from any date to be fixed in such resolution.

And the Governor-General in Council shall take such drafts and reasons into *consideration*, and when any such draft shall have been *approved by the Governor-General in Council*, and shall have received the Governor General's assent, it shall be *published* in the "Gazette of India" and in the local Gazette, and shall therefore have *like force of law*, and be subject to the like disallowances as if it had been made by the Governor-General of India in Council at a meeting for the purpose of making laws and regulations.

The Secretary of State for India in Council may, from time to time, withdraw such power from any Governor, Lieutenant-Governor, or Chief Commissioner on whom it has been conferred, and may, from time to time, restore the same as he shall think fit.

Such Legislation may be called informal or quasi-executive legislation. The section was applied to Ajmir and Merwarra on the 16th March 1871; to the Andaman and Nicobar Islands on the 15th July 1872; to certain districts of Assam on the 1st January 1873; to Coorg on the 1st October 1877; and to Upper Burmah (except the Shan States) on the 1st March 1886. It has also been applied to portions of other Provinces. The Supreme Legislature still legislates for the Central Provinces, the bulk of Assam, and the Panjab. There are some who think it would have been better to apply this section to the North-West Provinces instead of giving it a Council under the Councils' Act. There is apparently nothing to prevent the section from being applied even to advanced territories, as the preamble merely uses the words "certain territories."

It is a question whether the section should not be applied to the Punjab, Assam and the Central Provinces. The time of the Supreme Council has been taken up this year in passing no fewer than four Acts for the Central Provinces. These Acts were really the production of the Chief Commissioner, and Mr. R. Crosthwaite went up to Simla and passed them. If the Statute of 33 Victoria had been applied to the Central Provinces, the only difference would have been that *Mr. Crosthwaite would not have gone to Simla*, but that the Chief Commissioner would have *sent the drafts* up to Simla, and they would have been passed by the Executive instead of the Legislative Council. Can any unprejudiced person venture to affirm that the Acts would have been a whit better or worse in one case than the other? As a matter of fact, they would have been exactly the same. Mr. Crosthwaite's Bills passed almost without remarks from any other member. It would be simply farcical to allege that these Bills were likely to be any better for going to the Legislative rather than the Executive Council. If there were likely to be any difference, it would be the other way, as at a secret meeting, with informal discussions, members might be more ready to make suggestions than they would be in a public meeting with press reporters taking down every word. The fact is that questions connected with the land tenure of a Province must be left to the local administration of such Province. I once heard a Madras Judge say, that he had read the Bengal Tenancy Act, but that many parts of it were quite unintelligible to him. So it would be presumptuous of Bengal Civilians to suppose that they could improve a Bill dealing with land tenure coming from Madras or Bombay. And if those whose life has been spent in dealing with matters of land revenue and rent, and the relations of landlord and tenant, could not criticize with advantage measures framed in, and for other Provinces, much less could non-officials hope to do so.



Representative Councils, as they exist in other countries would mean in India a complete *bouleversement* of the existing constitution. Since 1861, as has been pointed out, the Executive Government cannot make any rules or pass any orders having legislative force.\* This, in the opinion of many high authorities, was going dangerously far. Still, the Executive can, through the Legislative Council as now constituted, pass any measure it pleases, though not without formal procedure and delay. If anything be done to take away or lessen this power, the one safeguard of the Empire would disappear. The most urgent question for consideration seems to be, not whether the authority of the Executive should be weakened—and it would be weakened by any expansion of the Legislative Councils, which was an expansion in reality, and not merely in name—but whether, in certain circumstances and conditions of urgency, and under certain restrictions, the Executive Government should not be given the power to issue rules and orders having legislative force, and whether the quasi-executive legislation under the Statute 33, Victoria, c. 3, should not be extended to a larger area of the country. It is instructive in this connection to read the debates on the Councils' Act in the House of Lords. Several speakers dwelt on the fact that there were many persons, and among them those of great authority, who urged that the Legislative Council should be altogether abolished, and that a return should be made to the old system of 1833, placing the power of legislation exclusively in the hands of the Governor-General and his ordinary Council. Several members, Liberals and Conservatives, expressed their opinion strongly, that petty mock Parliaments were quite unsuited to the circumstances of India. Earl Grey said that the existing Legislative Council was an admitted failure: the opposition to Government had been led by one of their own Judges, and this was felt to be an evil so urgently requiring the interference of Parliament, that it was probably the cause of the present Bill. In fact the Bill has been described as a Bill for extinguishing Sir Barnes Peacock. Some members expressed a fear that the Council constituted by the Bill would prove just as unmanageable as the one superseded. As regards this, Earl de Grey and Ripon pointed out that the members of the existing Council held their seats *ex officio*, and were appointed by other authority than that of the Governor-General; whereas the additional members of the proposed Council would be selected by the Governor-General, and would hold their seats for only two years. The

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\* Rules passed under any law, in which the power to make such rules is delegated to any authority by the law itself, have of course the force of law.

Earl of Ellenborough pointed out the urgent expediency of putting an end to the scandal and mischief which had attended the operation of the Legislative Council. It is important to note that it was in the interests of the native population that several members urged the necessity for keeping more power in the hands of the Government. The Earl of Ellenborough said :—"As far as his own Council goes, the Governor-General may almost universally expect that every measure of his, which fairly deserves approbation and support, will receive them, and that they will not be reluctantly given. But beyond the limits of that Council all is uncertain, uncertain even in persons who occupy some of the highest positions under the Government. That arises from this circumstance : there are among the English in India two parties. One of these parties desires to govern India for the English, and to treat it as if it was a property. There is another party which adheres to the Queen's Proclamation—which desires to govern India in the spirit of that Proclamation, and to do equal justice to the Hindoos and Musulmans as well as to the English, and, above all things, to respect the religion of the people. That is by far the smallest party ; and its head is necessarily the Governor-General." The Duke of Argyll, who followed him, said :—"The noble Earl should remember that although it was perfectly true that the Governor-General might possibly be a minority in the Council, as he always might have been, yet the Bill amply secured a majority of of that particular class (prominent among which were the Indian Civil Servants) who were for governing India in accordance with the wishes of the natives ; there would be the officials connected with the Governor-General and the members of the Civil Service ; and the independent members, representing the commercial community, would always be in a very small minority. He thought that this was a great security for the good government of India, because, whatever might be said of the shortcomings of the Civil Service, he was sure it would be admitted on all hands that the Civil Servants had uniformly desired to consult the wishes of the native population."

## XII.—CONCLUDING REFLECTIONS AND SUGGESTIONS REGARDING THE MULTIPLICATION OF LEGISLATIVE OR QUASI-LEGISLATIVE BODIES, AND POSSIBLE EXPANSION OF THE REPRESENTATIVE PRINCIPLE.

I must premise that I do not commit myself to the remarks made under this head, which, indeed, are not altogether in harmony with what has gone before. They are suggested by my study of the subject, and a desire to see if there is any practicable and

reasonable means of giving effect to the aspirations of the leaders of the native community to share in the legislation of the country without detriment to the administration but weakening of the central authority.

One or two modes have suggested themselves to me, but the following seems to me to be the best and most practicable, having regard to the conditions of a British dependency and to the circumstances of the country. I think any expansion of legislative representation might take the form of an extension downwards in the official hierarchy of the informal or semi-executive legislation described in the preceding part. I will take the case of Bengal only, with the conditions and circumstances of which I am acquainted. The operation of the Statute 33 Victoria, chapter 3, might be so extended in certain matters as to enable "divisional"\* councils to propose drafts of laws (or circulars or ordinances having the force of law) to the Lieutenant-Governor. The "divisional" council would be in the position of the Local Government, as described in the first section of the Statute, and the Lieutenant-Governor would exercise the powers of the Governor-General in Council. He might veto the draft, or he might approve it, in which case it would become law. There might be nine separate "divisional" councils for the Province of Bengal, corresponding to the existing Commissioners' divisions, namely, the Patna division, Chota Nagpore, Bhagulpore, Rajshahye, Burdwan, Presidency, Orissa, Dacca, and Chittagong. The Commissioner would be the President of the divisional council, and all the other members would be merely assessors or consultative members: that is to say, it would always remain in the discretion of the Commissioner to send up or not to the Lieutenant-Governor the draft of any law passed by the council. The Lieutenant-Governor might be given power to call for and consider the draft. Supposing a division to contain six districts, the Divisional Council might be constituted as follows:—

The Commissioner, President	...	...	1
The Senior Magistrate-Collector, Vice-President	...	...	1
The other Magistrate-Collectors	...	...	5
The Chairmen of Sudder Station Municipalities	...	...	6
Two leading Zemindars	...	...	2
A selected Government Pleader	...	...	1
Two representatives of the agricultural community,	...	...	2
One representative of the trading community	...	...	1
Total			19

\* I speak of Commissioner's divisions. There are nine such divisions in the Lower Provinces. There are about five districts in each "division."

The representative of the trading community should be a European in indigo, silk, or tea districts; the representatives of the agricultural and trading communities should be selected by the President from names to be submitted by the Collectors of Districts. The former would be chosen for their known identity with the interests of the ryots. The two leading zemindars might be chosen from amongst themselves by all zemindars in the division paying a Government revenue of Rs. 10,000 and upwards. The Government Pleader might be selected by the Commissioner. There can be no doubt that such a council would fully represent every class and interest in the division. It will be seen that the native members would outnumber the European members; but there would be no harm in this, as the council would be purely consultative, and large powers of discretion would have to be vested in the President. Moreover, it might be enacted that a measure could only be carried by something more than a simple majority. With the exception of subjects to be specified by the local Government, any member should be at liberty to propose a law on any subject, which would be brought on for discussion, if two-thirds of the total number of members were satisfied of the necessity for legislation. Such a council would at any rate tap native opinion in a very thorough manner, and its composition should preclude the possibility of any one section of the community gaining an undue advantage over other sections.

It may be said that such a council would be impracticable because of its native majority; that the moral influence of the recommendations of a majority would in time acquire such force as to compel the Commissioner to approve of proposals against his better judgment. I admit the force of this objection. As I have said, I am merely suggesting the lines of possible expansion. The idea is perhaps worth something, and may enable experienced statesmen to work out a safer scheme than the admittedly crude outline to which, as I have said, I do not commit myself. I have already expressed my own opinion in the previous parts of this essay, regarding the absolute necessity for retaining an ultimate official majority, for the simple reason that official members are the only real and true representatives of all classes; they are the only absolutely disinterested members. If non-official members command a final majority, it follows that there might be no representation of the very classes who cannot make their voices heard.

The creation of councils for smaller area units is suggested by the examples of the United States, Germany, Austria, Hungary, and the Swiss Cantons. Much useful remedial legislation is lost to India as a whole, and to its different provinces;

owing to the vast area and the varying characteristics, conditions, and circumstances of the places and peoples to be legislated for. Certainly different Commissionerships in Bengal present far greater differences than are to be found in different portions of certain European States having separate local councils. For instance, Austria has separate Provincial Legislative Councils for High and Low Austria, Bohemia, Boukovnia, Carinthia, Cracovia, Dalmatia, Galicia, Moravia, Duchy of Salzburg, Silesia and Styria. These provinces are not so large as many Indian Commissionerships. Of course, there are many restrictions on the amount and extent of legislative independence granted to subordinate provinces of the same State, and those who wish to see an extension of legislative autonomies in India, should bear in mind that in the German, Austrian, and Hungarian provinces, the Government or official control is carefully preserved and safeguarded. It is as an equivalent to this control that I have recommended the grant of an absolute power of veto to the Commissioner-President of the Divisional Council.

Under the Bengal Local Self-Government Act of 1885, District and Local Boards have been constituted, the jurisdiction of a Local Board being co-extensive with a sub-division of a district. But there are sections which provide for the creation of much smaller units, to be called "Unions" which would be groups of two or three villages. Supposing that such Unions have been created, it might be possible on certain questions of parochial, rather than provincial interest, to poll them, and initiate legislation in accordance with the popular vote of a strong majority. Let me instance such questions as liquor shops, fees on *jattras*, processions, marriages and Barwari Poojahs (to be spent in the village,) free primary education, sanitation, tolls, and pounds.\* Popular assemblies, such as the Comitia of Rome, and the early Teutonic Assemblies of freemen have disappeared, but a transference of legislative authority to the voters at the polls is still to be found in Switzerland† and America. The principle is known in England under the name of local option. The difference between America and

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\* We might in this way solve the problem of extra taxation for local wants. It is probable the people would rather increase the funds at the disposal of District Boards, Local Boards and Unions, by small self-imposed fees (to be spent in the village) than to have any pure additional taxation imposed by the Local Legislative Council. Fees on *shrads* or Barwari Poojahs would probably be considered objectionable as an interference with religion.

† The Swiss Federal Constitution (Art. 89) provides that, on the demand of eight cantons, any Federal law of general application, and not of an urgent character, must be submitted to popular vote for acceptance or rejection. This is called the Referendum.

Switzerland is, that in the former country *proposed* legislation is submitted to the popular vote before it is undertaken, whereas the Swiss Referendum can only be applied to laws which have actually been *passed*.

"Divisional" councils, as has been remarked, would only legislate on those subjects on which the Local Government might permit them to legislate. If the subjects were confined to matters of purely local interest, laws in contiguous "divisions" might differ without any inconvenience to the community. The following is a list of the subjects on which the Province of Styria has legislated for itself: construction of buildings; servants; vine-culture and vineries; extinguishment of fires; communes and communal elections; streams and irrigation; roads; agriculture; registration of landed property; district assemblies (*Anglo-Indice*—Local Boards?), and obligations of private persons to assist public officers. This is an instructive list. In other States laws may be found also on the following subjects: parks, forests, hunting, local taxes, lawyers, post-office, pawn brokers, foreigners, press, prisons and rural lands. India, as has been so often pointed out, consists of many countries, many races, and many languages. It is this fact that often prevents the undertaking of useful legislation, and that, too, even by Provincial Councils. It is almost impossible to pass Acts that shall suit equally well the conditions and requirements of all parts of even one Province. A Legislative Council for North Behar, such as I have indicated above, would assuredly pass a Tenancy Act of a very different character to one passed by a council for Eastern or Northern Bengal. The passing of the Bengal Tenancy Act reminds us of the way in which Procrustes operated on his victims; a limb is lopped off here to satisfy the pro-ryot members, whose service has been mostly in districts where the ryot is badly off and oppressed; another limb is stretched out to satisfy the pro-zemindar member, and so on. Just as Procrustes stretched all his victims, big or small, on the same iron bed; so the same Act is thrust on all districts alike, no matter how different their conditions and necessities.

If there were a council for each division, the conditions to be legislated for would be the same or almost the same. Let us illustrate our argument further. Suppose a large majority in the District of Hooghly are in favour of local option in the matter of liquor-shops, why should they be denied the boon, because Patna, Arrah, Gya and Monghyr, if polled, would be against it? Mr. Whitley Stokes' Easements Act has been laughed at, because it was passed only for Coorg, Madras, and the Central Provinces. When it was passed, there was a prejudice against codification and the codifying Law Member. Other Provinces would have none of the unholy thing. It was a case

of *timeo Danaos et dona ferentes*. But there was no reason why the great territories of Madras and the Central Provinces should do without legislation they wanted, because other Provinces did not want it, or thought \* they did not want it.

The existence of "Divisional" councils would be useful in two ways. Firstly, they could legislate with greater certainty and confidence on the petty matters entrusted to them, as their personal experience would extend to the whole of the area legislated for. Secondly, the Local Government would have a reliable body to consult in the matter of the extension of the various Acts passed by the main Provincial Council. As has been remarked, the great clog to remedial measures and improvements is the enormous area to be legislated for. Perhaps six Collectors are in favour of certain legislation, while six others are not: but they *may* all be perfectly right, *quoad* the requirements of their respective districts. The consequence is that inaction is preferred to action as being safer. Of course the *laissez faire* policy is all very well if it means leaving *well* alone; but it is just the reverse when it means leaving *ill* alone.

"Divisional" councils would be useful as responsible consultative bodies in this respect. Just as the Government of India often passes an Act, leaving it to Local Governments to extend it to their territories or not as they please, so the Local Government might enact a larger body of *législation facultative*, leaving it to the discretion of Divisional councils to extend it to their divisions. Of course the Provincial council would only act in this way when it doubted the advisability of a general application of the Act, and not where it was satisfied on such point. Many instances could be given of matters in which legislation of this character is called for. At present one part of the Province is starved in one matter, because the authorities of another part say they do not want any food of that description, and *vice versa*. One district would allow village punchayats to inflict small penalties for sanitary offences, while another would not. Members of the same community or religion are often divided on some important question affecting their interests. But why should they not all be pleased? Why should an Act be denied to those who want it, merely because others say they do not want it. Let us instance the Mahomedan Marriage Registration Act. Suppose the districts of Rungpore, Dinajpur and Rajshahye to be in favour of compulsory registration of marriages and divorces. Why should

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\* I say "thought," because it would be far better to extend the Act to other provinces. The Civil Courts would have a compact code to refer to, instead of having to grope about for the law in diffuse English treatises, such as those of Gale and Goddard.

they be deprived of a compulsory Act, because the Mahomedans of Tipperah and Backergunge think registration should be voluntary? Again, forest preservation and game laws are matters *par excellence* in which the opinion of the community affected should be consulted, and a "Divisional" council would exactly represent such opinion.

Provincial councils sometimes bemoan the restrictions on their power of legislation; but no one who has paid any attention to the subject can doubt that they might, had they been so resolved, have accomplished a good deal of useful legislation. The obstructions are two fold—firstly, the English lawyer influence in Presidency towns, which is opposed to much legislation; secondly, the large area and differing characteristics of the province to be legislated for. I am inclined to think Provincial Councils might, with advantage, take a leaf out of the book of some of the American States; I mean that they might pass measures for improving the condition of the vast majority of the population. Agriculture is the principal occupation, the principal source of livelihood, of the people all over India. This being so, it behoves the Government to pay especial attention to the welfare of the agricultural community, on the principle of conferring the greatest good on the greatest number. The average mediocre English lawyer advocates the *laissez faire* policy, and deprecates State control. In the innocence of his heart, he really believes that he is saving the people from oppressive and officious interference. Nothing could be further from the truth. With agricultural, commercial, and industrial development, the State must step in more and more to see that labour gets the hire to which it is entitled, and to regulate the relations of employers and employed. The Indian administrator is often struck by the fact, that the wages of a daily labourer remain unchanged for twenty years together: "rates" (nirokh) for coolies, carts, palki-bearers, &c., are very stubborn things. Are they not enshrined from time immemorial in the office of the Collector and Magistrate, and who shall disturb them? The law must sometimes step in to break custom.

The case of the State of Minnesota\* is much in point. Minnesota is an agricultural state, and minute legislation has been passed with the object of securing to the cultivator the full market price of his crop, and to prevent his being placed at the mercy of elevator and railroad companies. There has been in Minnesota no lack of disposition

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\* See "Contemporary Review" for May 1887. Article on "The American State and the American Man." By Albert Shaw.



to carry State regulation to the extremest lengths, and hesitancy has arisen only from the fear lest the farmers might injure themselves, if they crippled the railroad and elevators with over-severe restrictions. The railroad law requires, among other provisions, that cars shall be supplied to any applicant, and that the right to build warehouses on railroad land adjoining the tracks shall be freely accorded, and that side-tracts shall be provided.

Contrast this with the absence of all regulating legislation in India. Are not those who send grain by railway in India more or less at the mercy of subordinate Railway officials? It has often struck me that the cultivator always does not get for his paddy or other crops the price he ought to. There is but one railway station to which he can take his rice, and perhaps, owing to bad roads, he can only take it there during one-half of the year. Perhaps all the operations there are monopolised by an up-country Bania or a Marwaree. The cultivator does not know how to ship the rice himself, or to whom to send it, even if every facility were given him. He must sell to the "ring" who have established a monopoly at the railway-station. They, perhaps, give him a fair price, but not the full price to which he is entitled. In Minnesota the State appoints commissioners, who are required to take up the cause of any aggrieved individual, and prosecute the railways at the public cost and with the aid of the public prosecuting attorneys. Agricultural fairs, central and local, are subsidized from the State treasury, and in one year the Minnesota legislature appropriated a hundred thousand dollars for the equipments of a State fair-ground. The farm buildings and eighty acres of land constitute a homestead exemption, which is safe from all attachment and execution processes. Contrast with this the exemption in sec. 226 of the Code of Civil Procedure. In Dakota the "exemption" laws are far more liberal than in Minnesota. In Bengal the agricultural community asks for bread, and they are given stones in the shape of price-lists, estimates of outturn of crops, jute-forecasts, packets of Buxar wheat sent to be sown and reported on by zemindars who want to become Rajas, and swarms of locusts and leeches in the shape of survey and settlement establishments to harass them and suck their life-blood out.

Again in the States and territories of the grazing belt, there are minute cattle-laws. The Statute books of Montana and Texas reveal the importance of cattle-raising, while the laws of California bear the impress of a mining community. Of course such legislation sometimes overreaches itself; but in the main it confers inestimable benefits on the community in whose interest it is undertaken, that is, on the majority of the

population. Jealousy for the freedom of the individual has not prevented legislation from prohibiting the sale and manufacture of liquor ; but, of course, such laws are obeyed only so far as they are in accord with local public sentiment ; beyond that point they are a dead letter. Mr. Shaw says :—" The American Economic Association—a new body, including as members a majority of the best political and economic students of the country—frankly repudiates *laissez faire*, and publishes as the first in its statement of principles :—" We regard the State as an agency whose positive assistance is one of the indispensable conditions of human progress. Let this doctrine be accepted without qualification. Let it be understood that it is within the legitimate province of the State to do anything and everything." I am convinced that the result of an emancipation from the *laissez faire* bugbear, which now exerts so unfortunate an influence, would be a more careful and scientific law making. Certainly the history and circumstances of India are in favour of state control, regulation, and interference. If there be such control and interference in matters of taxation and the like, why should local legislatures shrink from passing measures calculated to increase the wealth of the people, and make their lives happier ? \*

It may be urged by those who oppose the idea of " Divisional " councils, that the Collectors of districts are equally capable of ascertaining the real opinion of their districts, and reporting it to the Commissioner. To such critics I merely reply that I have offered the above suggestions with great diffidence, and not with any conviction of their practicability. The ' Divisional ' council gives some scope to educated aspirations, and it recognizes the principle of local representation. I have, therefore, suggested it. No reasonable man will admit the wisdom of suddenly thrusting on Oriental nations the institutions of the West, the slow growth and product of many centuries. But unfortunately would-be reformers count unreasonable men among their ranks, men who think that new wine should be put into old bottles, men who have no faith in the adage ' *Naturâ nihil fit per saltum.* ' The spirit of breathless (but not harmless) benevolence is a factor, the existence of which cannot be altogether ignored by the statesman.

Nor can the practical writer on law and administration afford to be behind the age. Though he himself may not have given in his adhesion to the proposition that local self-government and legislation by the people are " like a barber's

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\* We get elaborate procedure codes—far too elaborate!—*Usque ad satietatem!* The country wants cheap and simple procedure. It wants less adjective law, and more substantive law, directed to the wants of the people and the development of the resources and wealth of the country.

chair, that fits all buttocks," occidental or oriental ; still he must not lose sight of the fact that this eternal principle is being constantly quoted by those who have considerable power and influence, and are in a position to bring pressure on the Home Government with the view of effecting radical alterations in the constitution of the country. The writer does not say that these alterations ought to take place ; but if they are to take place, he suggests a means of effecting the object aimed at, without detriment to the country or the administration. He has tentatively suggested a scheme, which may cause ideas to fructify in the minds of Indian statesmen of large experience, and so may indirectly lead to propositions of a possibly safer and sounder character in the same direction.

" But words are things, and a small drop of ink,  
Falling, like dew, upon a thought, produces  
That which makes thousands, perhaps millions, think."

H. A. D. PHILLIPS.

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#### ADDENDUM.

**I**T was after I had written and finally revised this article that I received (November 1st) from Mr. Charles Bradlaugh, M.P., the draft of a Bill for Reforming the Supreme and Provincial Legislative Councils of India. My article, it seems, will appear at a very opportune moment, and (should Mr. Bradlaugh succeed in bringing on his Bill) will doubtless be read by those members in either House, who take any interest in Indian affairs.

I regret that I have been unable to comply with Mr. Bradlaugh's request to make his draft Bill the subject of my criticism ; but, as I shall shortly be in England, he will perhaps be willing to discuss with me, personally, this and other administrative problems relating to India. The able member for Northampton boldly and honestly asks for criticisms, whether for or against his Bill, as they will be of "exceeding value in guiding" him ; and I venture to think my article virtually criticises his Bill, and will suggest to him many points for consideration. He has, perhaps, looked at things hitherto through the non-official (or shall I say, the Congress) telescope ; let him now turn the telescope round and look through it the other way, and he will see that what had appeared to him to be very large evils and abuses, have become very small ones. Perhaps the truth lies at some point between the magnifying non-official and the minimizing official lens. If Mr. Bradlaugh desires the material advancement of India and the greater prosperity and happiness

of its populations, there are numerous officials who will not yield to him one jot in that respect. There are others besides him who claim to have the *perfervidum ingenium* of the reformer. Though I may not advocate any radical alteration in the constitution of the Legislative Councils, there are other institutions which more urgently call for the attention of the reformer.

Threatened existing institutions live long, and reformers have a rough time of it, getting more kicks than halfpence, that is, more abuse than fair criticism. However, they have ample consolation in the knowledge that, when a man shirks the real issues, forsakes argument and criticism, and gives vent to mere disparagement and abuse, he pays the best tribute he can to the truth and unanswerable nature of his opponent's case, while he shows that he has no case himself. The *bonâ-fide* reformer cannot help feeling indignation at what he considers gross abuses, and he is compelled by the *vis major* of honest indignation to do all he can to remove those abuses. Those who are opposed to proposed reforms gain little good by attacking or pooh-poohing the reformer; let them demonstrate to the public that the so-called reforms are injurious. This I have attempted to do as regards the proposed radical alterations in the constitution of the Legislative Councils. Though I had not the advantage of having Mr. Bradlaugh's Bill before me when writing my article, yet I venture to think that the article makes out a strong case against the radical alterations proposed in the Bill. However, all honest reformers are always open to solid argument, and I should certainly like to discuss the subject-matter personally with Mr. Bradlaugh; possibly such discussion might result in our both modifying our respective views.

It will not be out of place to mention here that, during the debates on the India Councils' Act in the House of Lords, a proposal was made by Earl Grey for the establishment of a purely consultative Council; and this was the most radical proposal that was put forward at that time. Earl Grey admitted that anything like representative Government in India was impossible; he even deprecated publicity of discussion, saying his experience as Colonial Secretary of some of the Colonial Legislative Councils, had convinced him of the danger of it; and he went so far as to say that the power of legislating should be concentrated in the hands of the Governor-General and the *Executive* Council. But he thought some means should be adopted for the declaration of public opinion on measures before they were finally adopted. "He proposed that a body should be constituted that, for the want of a better name, should be called a Council of State, limited in number, but still comprising as many members as might be found

convenient, and consisting of men of the most distinguished character and station in India, of different races and professions, so that the whole community might be fairly represented. From this body the Governor-General should have the power of nominating Committees to inquire into any subject on which legislation might be required, and to prepare drafts of laws upon them. He further proposed that all draft laws, which the Governor-General thought were proper to be passed, should, before being finally considered, be submitted to a meeting of the Council of State. . . . Some of the greatest laws passed during the reign of Napoleon were mainly put into shape by the Council of State, a body which possessed no legislative powers but was simply a consultative body." The amendment was strongly disapproved and negatived. Earl de Grey and Ripon spoke as follows concerning it: "The noble Earl, (Earl Grey) said that the Council would be too much open to the influence of public opinion at Calcutta, and too ready to make speeches appealing to public opinion in this country and in India. What was the remedy proposed by those who took objections to the measure supported by the Government? They proposed to establish, apart from the Governor-General, contrary to immemorial custom, and unconnected with his authority, a great Council of State, which was to deliberate in public, to have its proceedings reported, and was then to submit its recommendations to the Governor-General. But was not an independent Council such as that suggested by the noble Earl, much more likely to overpower the Governor General, and to force their opinions upon him, than a Legislative Council of the character indicated by the Government? This Council of State, according to the noble Earl, was to be composed of a large number of persons in high position and of great weight, representing, as far as possible, the various opinions and interests existing in India, and enjoying the superadded importance of rank and standing. Were such a Council established, one of two things would happen: Either it would have no real power, would be unable to influence the Governor-General, and would find its opinions constantly disregarded—in which case men of weight and influence would decline to sit upon it, and as a deliberative body it would fall into desuetude and disgrace—or, the much more probable result would ensue, that such a Council, being independent of the Governor-General, having among its members no representative of the Executive Government, and being invited to conduct its deliberations in public, would be enabled to submit its recommendations with such authority that, except in cases of great emergency, the Governor-General would find it impossible to disregard their opinions."

The existing Congress, though not recognized by law, is a Council of this character. Their opinions and resolutions are forwarded to and considered by the Government of India. They have informed the Government that they desire a complete separation of judicial and executive functions ; that the Police administration is unsatisfactory and oppressive ; that the industrial condition of the people should be developed ; that insobriety should be discouraged ; that the system of trial by jury should be extended ; that natives should be enlisted as volunteers ; that arms should be carried without licenses ; that the Legislative Councils should be expanded ; that the age for competing for the Covenanted Civil Service should be raised to 23 ; that the taxable minimum of income under the Income Tax Act should be raised from Rs. 500 to Rs. 1,000 ; and so on. The Government is in the best position to estimate these resolutions at their proper value, and would, no doubt, be glad to receive similar resolutions regarding social and moral reforms. Such opinions and resolutions would not be of any greater intrinsic value by reason of the conferment of some legal status on the body from which they have emanated.

As to Mr. Bradlaugh's Bill, I humbly think it goes too far. If Legislative Councils are to be expanded, and the principle of representation introduced, such alterations should be made tentatively and hedged round with safe-guards. The passing of Mr. Bradlaugh's Bill as it stands, would be the insertion, not of the thin end, but of the thick end of the wedge ; it would not be the capture of some subsidiary out-work, but the surrender of the main fortress itself. If the Legislative Councils go, all else must rapidly follow.

H. A. D. PHILLIPS.

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## ART. IV.—CAMEOS OF INDIAN DISTRICTS.

### *IV.—Karnal, Panjab.*

TO find the town and station of Karnal on the map is by no means difficult. It is only necessary to run the eye along the Grand Trunk Road 73 miles from Dehli to the north, or to follow the same guide 47 miles south from the Cantonment of Umbala.

The administrative area of the district of to-day will hardly be found from any map however modern, because its boundaries have been altered from time to time in a very puzzling way, even for those who know the landmarks. In the present year 89 villages were added by transfer from the Umbala District, while a circle of fifteen estates, of which the capital was Badladha, 101 miles from Karnal by unmetalled road, have been made over to the district of Hissar, from which the curious island that they form in the territory of the Patiala State, is at least moderately accessible. There are still a number of isolated villages scattered to the north and west beyond the border.

The origin of these peculiarities lies in the history of the tract, and that again depends on its physical character. The huge Himalayan spur, from which the stations of Simla and Kasauli overlook the basins of the Satlej and the Jamna, dips to a low watershed which can be traced in the plains from below Nahan to the point, a little to the north of modern Dehli, from which the rocks of the Aravalli system rise out of the alluvial flat to join the hills of the ancient Central Indian plateau.

The waters which collect from the eastern and southern aspects of this ridge flow to the Jamna, and ultimately to the Bay of Bengal. From Sirhind and Umbala southwards, the surface floods that drain towards the west are sooner or later absorbed in the always thirsty and often rainless tracts that skirt the central uplands of the Province.

In seasons of excessive rain submountane torrents from the Siwalik tract below the Simla and Sirmor ranges, produce a chain of swamps extending from the sacred towns of Thanesar and Pihowa to Kaithal (in the west of the present district of Karnal); and similar morasses formerly rendered the tract between Karnal and Panipat to the east, and the ancient settlements of Salwan and Safidon to the west, impassable.

Beyond this belt of fens to the west and south, the Jangal Des, or "Great Waste Land" stretches to the Satlej, and formerly was almost uninhabited. The soil being light and often sandy, supports, even now, a sparse if industrious population. Caravans and armies therefore from the west kept to the well-stocked country closer to the hills, by roads leading from the Indus to Sirhind; and from Sirhind again the southern route, since immemorial antiquity, has lain through Panipat to Dehli. Timur, it is true, marched across the "Jangal Des" by Samana and Kaithal, and a somewhat similar line was followed by the East India Company's military road from Karnal to Ferozepore, but these were exceptional cases.

From the time that Ali Mardan Khan, Engineer-in-Chief to Shah Jehan, remodelled the canal which had been dug to bring the waters of the Jamna across the ridge already described to the hunting palace of Firoz Shah Tughlak at Hissar, the key to the defences of Dehli lay at the King's Bridge (Badshahi Pul) by which the imperial road crossed the canal some 15 miles to the north of Panipat. Between the outpost at Tiraori—which was built by order of Aurangzeb, and named after an infant prince Azimabad—and the Royal Bridge, there lay an intricate and dangerous labyrinth of marsh and thicket, in the heart of which the petty fort of Karnal commanded the right bank of what was then the main channel of the Jamna.

When Nadir Shah in 1738 A. D. captured Azimabad, the Imperial army was entrenched close to Karnal, and there sustained reverses which led to the capitulation, on the 13th February, of Muhammad Shah, and all the subsequent calamities. For the rest of that century Karnal remained an important military post, the country to the north and west being abandoned to the growing power of the marauding Sikhs, or to the Afghan incursions. During the period of decline the semblance of Civil Government was maintained in the name of the puppet Emperors of Delhi at the ancient town of Panipat. Beyond Karnal the once fertile province of Sirhind was plunged, for more than a hundred years, in the wildest anarchy, from which there gradually emerged a host of petty States, each swayed at his personal and often savage caprice, by one or other of the Sikh barons who had risen to power on the ruin of the Delhi State and the decay of the Khalsa institutions.

In the battle fought beneath the walls of Panipat on the 6th of January 1761, the Durrani army shattered at a blow the Peshwa's ambitious dreams and the tottering remains of the Moghal supremacy. In 1795 the Sikhs under Bhag Singh, the Chief of Jhind, were driven beyond Karnal by the gallantry of Thomas, to whom Sindia assigned the somewhat thorny gift of



the fort and its adjoining villages. No sooner, however, did that restless adventurer march to seize his other grants in Jhajjar and Hissar, than the Sikhs combined to surround so dangerous an intruder, and while Thomas retired to Hansi followed by the chiefs of Jhind and Kaithal with a swarm of lesser hoiynets, the Ladwa Raja occupied the fort and town of Karnal, from which, in spite of sundry flourishes of General Perron's trumpets, he was never really dislodged till his final expulsion in 1804 by the British forces. The policy of Lord Lake excluded the Ladwa Raja and his ally of Thanesar from the amnesty of 1805, by which peace at least was restored to the wretched people of the Jamna valley. Since Gurdatt Singh's matchlock men marched out of the petty stronghold at Karnal, it has served many unwarlike purposes, and is now the Court-house of the Tehsildar-Magistrate at the head-quarters of the British district of Karnal.

To return to 1805;—the statesman who had exorcised the demon of misrule from the Dehli territory was recalled, and the reaction which ensued has been graphically put by Sir David Ochterlony, who then held chief Military and Political control at Karnal :—

“The fact is notorious that the policy of those times considered the most of our acquisitions beyond the Jamna as incumbrances ; and the Governor-General's Agent's only embarrassment was, how to dispose of what Government had declared they could not, or would not, keep, in the manner least likely to be ultimately injurious to our vital interests. With this object in view, he formed a belt of Jagirdars round our ultra-Jamna possessions from Karnal to Agra.”

This policy, however, had reckoned without the master of Lahore, and in 1806, Ranjit Singh, to whom maps and treaties were matters of very small account, crossed the Satlej in force and occupied Thanesar. Diplomacy kept him at arm's length for a while ; but the situation was unmaintainable, and by proclamation of the 3rd of May 1809, Lord Cornwallis' belt of united Jagirdars was conveyed in perpetuity to the use of chroniclers and moralists. A cantonment, the Peshawar of its day, was formed at Karnal, and all the territory formerly held by the Sikhs to the south, with the exception of a few villages which remained with the Raja of Jhind, was placed, with other tracts ceded by the treaty of Sirji Anjangaon, under the civil charge of a Resident at Delhi. The Nawabs and Khans, Sirdars and what not, friendlies and unfriendlies, were left to fight it out undisturbed, so long as they respected the sacred boundary line of the cantonment pillars.

The proscription of the Ladwa and Thanesar chiefs led to the growth of a host of petty states between Karnal and

Umbala, where a subordinate Political Agent was established. To the west the country was divided between the Raja of Jhind and the Bhai of Kaithal, the representative of a line of military priests whose position in the Sikh Diet was not unlike that of the Prince-Bishops of certain uncomfortable times in European history.

In 1824, as matters became more and more settled, the Delhi territory was re-arranged under Civil Districts. Of these Panipat was one, and embraced the older portion of the modern district of Karnal, the Panipat Sub-Collectorate namely, and half that of Karnal, known to revenue officers now as the Karnal Parganna. It also included the Sonapat tract, since transferred to the Collectorate of Dehli.

By 1832 matters were thought to be ripe for bringing the frontier administration into accordance with certain patterns which were in vogue in the Lower Provinces. The whole machinery of the "Sudder Board" and the "Sudder Adawlut" was, on paper at least, duly extended to the N. W. border, to the precise point that is commahded by the guns in garrison at Karnal; and as the Jagirdars or petty kinglets at Shamgarh, Sikri, and other "peels" or "garhis," as such keeps would be called in the frontier districts of to-day, were so misguided as to intimate that they would rather risk the guns than allow the myrmidons of the "Adawlut" safe conduct over their particular preserves in search of thieves, they were convinced of the error of their ways by having the \*criminal jurisdiction of the Magistrate of Panipat extended, by a stroke of the pen, throughout their holdings.

The Kaithal tract had remained in 1809, as already mentioned, with the "Bhaikian" house, so called to distinguish it from the second branch of the same line, the "Phulkian," or sons of Phul, of which the chiefs of Jhind and Nabha, and the Maharaja of Patiala are the ruling representatives. The Bhais themselves originally held the tower and lands of Bhuchonke (in the modern district of Ferozepore), and the founder of the Kaithal power, Bhai Desu Singh, acquired the nucleus of the principality, about 1760, expelling from Kaithal sundry Pathans, also the Mandals of Samana (near Patiala) whom the disorder of the times had tempted to take a share in the scramble which their betters had set on foot for fiefs and kingdoms.

On the 15th March 1843, Bhai Ude Singh, the last of the nominal heirs of Desu Singh, died at Kaithal without issue or nearer kinsmen in the male line than the descendants of a brother of \*Bhai Desu Singh,—who held under the Kaithal

The Chiefs, however, did not lose concurrent criminal powers till later.

chief by a Zaildari tenure, as the term went, the lordship of Arnauli. The Phulkian States at once sent agents to the Kaithal capital where Mr. Greathed had been deputed, through the Resident at Delhi as Political Officer on the part of the Governor-General to provide for the escheated principality. The Sikh deputies instead of helping the British representatives, kept secretly fomenting trouble on their own account, which culminated on the 10th of April in the flight of the Queen mother Rani Saheb Kour, who had long been the real director of the State, and an open mutiny of the Kaithal forces, headed by an adventurer named Teg Singh.

Mr. John Lawrence, the Collector of Panipat, promptly despatched such levies as could locally be raised through the Nawab of Kunjpura and other sources, and regular troops followed, by whom the incipient rebellion was suppressed, and the town and fort of Kaithal occupied by the British Power, while the leader of the revolt was captured by the Maharaja of Patiala. These events led to the establishment of the Kaithal district under an Assistant to the Agent to the Governor-General at Umbala. The first officer who held the Assistant's post at Kaithal was Major H. M. Lawrence. How "Henry Lawrence strove to do his duty" during the six months he ruled at Kaithal before his transfer to the Residency in Nepal, will be seen afterwards.

In a minute on the newly settled tract, he had shewn how little reliance could be placed on the Cis-Satlaj feudatories, and his firm hand had scarcely yielded up the reins before his words were amply verified.

On the 4th December 1845 the Sikh army advanced across the Satlej, and the loyalty of the Cis-Satlaj chiefs melted like a morning cloud before the spells of the Khalsa Generals. Only the Patiala State emerged with honour from the trial; the rebel chief of Ladwa who

"with an estate of £10,000 a year, almost openly avowed his  
"treason, and after a time went over to the enemy with all his  
"troops and artillery,"

was deposed; and under a despatch of the Governor-General of the 17th November 1846, his ill gotten estates were once for all included in the Kaithal district, and the jurisdiction of the officers in charge of that territory, and of the district of Panipat (Karnal) was extended, in all matters of Police and Civil justice, throughout the areas included in the boundary of their respective charges. Among the feudatories whose powers were thus forfeited, was the Pathan Nawab of Kunjpura, a little town five miles to the east of Karnal, in the Indri Khadir.

At the same time the baronial customs and the vexatious

tolls which hampered traffic at the barriers—sometimes less than half a dozen miles apart—of every little potentate, were swept away, and as the Jagirdars (or medialized chiefs) complained that without the rabble of horse and foot which served them as a civil establishment in case of peace, and military levies in time of war, they could no longer squeeze their revenues from the luckless tillers of the soil, a settlement of their Jagirs or land grants was in train, when the outbreak of the second Panjab War postponed the question.

That struggle ended, the policy declared in 1849 put an end to the last vestiges of anarchy in the Cis-Satlaj country, a revenue settlement of the land beyond the Dehli territory was ordered, and the Kaithal and Umbala tracts were included in the newly formed province of the Panjab, the Karnal and Panipat jurisdiction remaining with the Lieutenant-Governor of the N.-W. Provinces at Agra.

In 1850 the Thanesar principality finally lapsed by failure of issue and was included in the Kaithal district, and concurrently the new district of Thanesar was formed from the territory thus escheated, together with the Ladwa and Kunjpura Jagirs, as well as certain minor grants in the same neighbourhood. The head quarters of the new district were removed from Kaithal to the more accessible but very unhealthy site of Thanesar.

In 1859 the Delhi territory was transferred from the Lieutenant-Governorship of the N.-W. Provinces to the Chief Commissionership of the Panjab, and in 1862 the district of Thanesar was broken up, the northern portions, including the town of Thanesar going to the Umbala district, while Kaithal and the Indri Parganna (chiefly consisting of Kunjpura and part of Ladwa, with certain minor Jagirs) falling to Karnal, the headquarters of the district being at the same time taken to the old cantonment (disused since 1841) from the former seat at Panipat. Several other changes, but of less importance, have occurred in the interval.

This retrospect does not pretend to be a historical sketch. Fully to describe the almost incessant changes of masters this luckless strip of land has suffered, the contending forces it has in turn supported or endured, and the conflicts it has witnessed \* since the "sparks that clashed from the weapons of the Mahabharat heroes burned its soil," would take not one but several volumes.

By whichever side the victory was claimed, the unhappy peasantry might look for unsown fields or crops destroyed,

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\* Report on the Settlement of the Panipat Tehsil and Karnal Parganna, by Denzil C. J. Ibbetson, C S. 1883, para. 68.

if, indeed, they had not to bewail invaded hearths and ruined homesteads.

The change effected on the Kaithal border by Sir Henry Lawrence is thus described by his own pen :—

"The old state of the country may be gathered from the fact of more than a hundred men having been killed and wounded in a single boundary dispute not above 4 years ago, between two villages of Kuttana and Jhind: from the village of Pae, within a march of Kythal, and for forty years an integral part of the territory, having within the last ten years withstood the army of the Bhair for eight months: and from the inhabitants of Chatur, in Kuttana, never having allowed the Sikh officials to enter their village, being permitted to pay their † Kists at the Thana of \* Kuttana. In fact, the whole system was one of expedients, sparing the strong and squeezing the weak."

"From April to September, 85 persons were convicted and sentenced for thefts and petty robberies. Not a case of gang robbery or wholesale cattle-lifting happened after the first week of our rule. One murder took place, that of a Jail burkundaz by three prisoners, who were made over to the sessions."

"On the first October there were in Jail 141, on bail 25;—a number that may not be considered extraordinary when it is recollected, not only by what a lawless neighbourhood Khytal is bordered, but that at least a hundred criminals were let loose upon the country when the outbreak occurred; and that robbery and outrage were scarcely discountenanced by the old Government, and actually recognized by many of the officials."

The condition of husbandry under a rule which fostered rapine as better Governments have striven to foster tillage, may be inferred from the following passage :—

"Many villages in Purgunnahs Agoundh, Cheeka and Khas Kythal had so deteriorated, that hundreds of wells were unused, and little or nothing had for years been collected from the land; so bad were matters that the late Bhaee had been obliged to grant an abatement of Government demands in these quarters, and in some instances to accept a fourth in lieu of the former rate of a third of the crop. Such, indeed, was the desolation of portions of the district, that in April and May last, when looking from the tops of the towers at Poondree Haburee, Kuttana, and other places, I could often see miles and miles of good land without a single acre of cultivation."

Half a year afterwards the Assistant Agent writes as follows :—

"The last rains having been very favourable, and confidence being restored, the rice sowings in July and August were, in many quarters, five times as much as in the preceding year. In one instance, as I was riding along the † Assant border of Kuttana with Raja Sarup Singh, we heard and saw the husbandmen singing as

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\* Revenue Instalments.

† A popular version bears that the money bags were handed over the village palisade on the end of a pitchfork.

‡ Asandh, near Salwan.

they drove their cattle through the saturated fields. The Raja smiled and called my attention to their air of security, observing that, if they had been so employed last year, the chances were that there cattle would have been carried off by some foraging party."

In the piping times of peace criticism is easy ; and it may be said that Lawrence was possibly disposed to over-rate the evils which he had made it his task to remedy ; let us call another witness then, his successor, namely, at Kaithal, Captain Abbott, who made the second Revenue Settlement of the tract.

"The arm of the law, if law it can be called, was weak ;—paralyzed ; no protection was given to person or property ; indeed, the State set the example, and plundered without remorse. It was the most common occurrence to mark off a slice out of a village on which to locate a favourite,—entire disregard being had to right or possession. The State considered all land its own to be dealt with as it pleased. Cattle at graze were attended by bodies of armed men ; forays and bloodshed were frequent and common ; and want of security caused zemindars to plunder in self defence.

"Occasional attempts were made to extend cultivation by cuts from the rivers, but these required a Bund across the stream which it was necessary to protect by a tower ; indeed, a well could not be worked without a tower into which the wood work and bullocks were deposited during the night or on approach of plunderers."

A history of the ills entailed upon the Karnal country by the fate of its position will be found in Mr. Ibbetson's Settlement Report already quoted, a mine of information and research not only for the tract with which it deals directly, but regarding the people and antiquities of the district generally.

He thus describes the state of things which the Company's officers found on the occupation of the Panipat tract in 1804 :

"So ended that terrible time called by the people *Singásháhi ká Rám-Raula* or *Bháogardí*, the "Sikh hurly-burly," or the "Mahrattá anarchy." Its horrors still live vividly in the memory of the villagers. The Sikhs never really established their grasp over the country south of Pániput ; and they held what they did possess only as feudatories of the Mahrattás. But the whole period was a constant contest between the two powers ; and the tract formed a sort of no-man's-land between their territories, and, coveted by both and protected by neither, was practically the prey of the strongest and most audacious freebooter of the day, whether hailing from the Panjab or the Deccan, for nobody cared to spare for to-morrow what he might only possess for to-day.

"Out of 221 villages in *parganah* Karnál, the inhabitants of 178 had been wholly driven from their homes and fields. The royal canal had long dried up, and thick forest had taken the place of cultivation, and afforded shelter to thieves, vagabonds and beasts of prey. In 1827 Mr. Archer remarked that "only a very few years had elapsed since this part of the country was inhabited wholly by wild beasts." Deserted sites all along the old main road still tell how even the strongest villagers had to abandon the spot where their fathers had lived for centuries, and make to

themselves new homes on sites less patent to the eyes of marauding bands. Every village was protected by brick forts and surrounded by a deep ditch and a wall of some sort; every group of villages was at deadly enmity with its neighbours; and there are several instances where two contiguous villages, in memory of a blood feud dating from the Mahrattá times,\* refuse to this day to drink each other's water, though otherwise on friendly terms. In 1820 the Civil Commissioner reported, and the Governor-General endorsed his conclusion, that "the native administration took no concern in criminal justice or police, any further than as its interference in those respects might be made subservient to its immediate pecuniary gains; and that the village communities, while they held the property of their own society sacred, habitually committed depredations and aggressions on other villages or on travellers, and generally shared the plunder they obtained with the ruling power or principal local authority.

The physical features of the district have been already partly indicated. It is essentially a district of the plains, though from west to east its surface dips by successive undulations, from the edge near Kaithal of the central plateau of the Punjab, to the valley of the Jamna, which is the western fringe of Hindustan. The declivity from the northern border near Thanesar to the south and west is reckoned at about two feet to every mile. This almost imperceptible incline is not broken by any cross ridges, and so differs from the eastern slope, which is intersected by the crest of the general watershed.

The alluvial belt of the Jamna valley, called the Khadir, is from five to fifteen miles in width, and presents conspicuous features to the eye in its vegetation especially. It is the home of a wild palm closely resembling the cultivated date, and of several sorts of tall reeds and giant grasses the feathery-tufts of which lend a pleasing effect to the autumn landscape.

Almost every village has its mango garden, and some are dotted with groves, while the cattle-roads that radiate from the homestead are often shaded with Jaman or Jamoa trees (fruit producing species of the myrtle family) and fenced with natural hedges of tamarisk, the thorny caper, and a host of flowering shrubs for which the English names remain to be invented.

The ground where moist or shaded is carpeted with the perennial creeping grass, † and in spring is decked with flowers, some of which recall the English hedge rows.

In February and March the water courses and corn fields abound with catch-fly, vetches, pimpernel and other pretty

\* The present Naib Tehsildar of Panipat, representing the hereditary Qanungoes of that tract, is the first of his family who has tasted water from the wells of the village of Urlana, the Rajputs of Urlana having murdered his ancestor. The Emperor bestowed a village on the Qanungoes "as compensation."

† (Cynodon Dactylon Pers; in vernacular Dubh, or Dubra.)

and familiar waifs, and even the grasses number one or two exceptions to the alien habit of their tribe in southern latitudes.

The noon-day breeze rustles the branches of the mango-tope, the Persian wheel drones its industrious burden near the traveller's camp, and all the cheery side of rustic India is at hand in the cool season.

From November till the beginning of April, there are few pleasanter spots for life in tents than can be found in the Karnal or Indri Khadir, but the picture for the permanent inhabitants and the district officer as well, has its reverse side.

As the winds begin to veer in May, the water in the creeks and hollows dries, fever and other ills attack the villagers, and the close stifling heat, which the hot blasts from the uplands and the southern desert hardly stir, enervates even accustomed frames, leaving an easy prey to the noxious exhalations that are bred by the floods of autumn.

The rainfall in the Indri-Karnal Khadir is believed in a wet year to exceed forty inches, and the whole bed is intersected with old channels and depressions which receive during the months from July to September sudden, and too often disastrous floods from the Jamna, while throughout the rains they are filled with surface water sufficient to impede and sometimes to endanger traffic.

Even in the winter the Jamna is a very treacherous neighbour, and it annually provides a deal of work for the Revenue staff both by the destruction of crops, and the alteration of landmarks.

Hailstorms parallel to its course are frequent, especially when the spring crop is ripening, and are much dreaded both for their direct results, and because of a certain "sneaping wind," which the farmers say sometimes precedes and always follows them.

The chief spring crops in the Jamna valley are wheat, barley, and *gram*; rape (sarson) linseed, and pease are also grown, and as late crops ripening up to June, melons, onions and tobacco. Carrots are also raised in the Indri Khadir particularly, but this is not considered a dignified form of petite culture, and garden plots generally are regarded as the sign of a grovelling and avaricious disposition. These lofty prejudices, however, are disappearing.

The autumn staples include rice, maize and Jowar (bush millet) and different lesser millets, several kinds of pulse and beans, sesame, and cotton. A kind of autumn rape or colza, known as Toria is largely sown as a late crop for the sake of the oil expressed from its seeds, and its bright yellow flower is a characteristic feature of the tract in which it flourishes.

Sugar is set by layers, chiefly from the topmost segments of the cane, in March, after much expenditure of labour



on the soil. It is ready for harvesting about December, and cutting and pressing go on up to the end of the cold weather.

"*Chari*," the chief crop directly grown for fodder, is simply the great millet thickly sown to be cut or grazed before maturity.

Gawar (Cyamopsis) is a leguminous staple, which looks when standing not unlike a field of stunted Windsor beans ; it is grown exclusively for cattle, but the straw is said to be useless.

A very exotic looking crop to the western observer is the safflower (Carthamus ; vernacular Kharar or Kasumbh) which is grown round the borders of wheat and gram fields commonly, for the orange dye furnished by the florets of its thistle-like head.

Indigo is pretty largely raised,—near the town of Panipat for instance,—but chiefly for the seed which is exported.

Rice is of three chief kinds,—munji, and santhi being coarse, and ziri fine sorts respectively. The ziri of the Indri-Khadir had a reputation which the change of canal system has gone far to destroy.

Of fibre plants San (Hibiscus-hemp) and Sani (Crotalaria-hemp) are grown generally in strips alternating with sesame and cotton, or round the field borders of other autumn crops.

The poppy was cultivated in the Indri Parganna until 1860, when owing to its inclusion in the Karnal district, the prohibition inherited with the Delhi territory was locally extended, to the loss of the great landlords and probably of the cultivators as well.

To the west of the Khadir, in the southern portion of the district, lies a fine expanse of even loamy soil, known as the Bangar, and another Bangar strip lies between the northern Khadir and the watershed.

The ridge itself is often hardly perceptible, but one's approach to this curiously insignificant "divide," is unmistakably announced by changes in the appearance of the soil and vegetation. The soil assumes a stiff grey surface like the hardest clay, which degenerates in patches often of wide extent, into a gritty hide-bound cake, incapable,—by means as yet within the reach of the local husbandman,—of cultivation. These sterile patches, locally known as "*Kallar*," are commonly impregnated with certain mineral compounds,—chiefly salts of natron. In the Bangar and parts of the Khadir too, similar patches effloresce with a white scum, not unlike hoar-frost, and are known as "*Kallar Shor*," and the disease as "*Reh*." The Reh-poison has produced very learned controversy, and owns a copious if somewhat dreary literature. Happily it shews a tendency to disappear, and there is some hope that improved drainage will

work it out, as is said to be done with the similar precipitate upon the soil in California and Utah.

The Reh pockets lie chiefly along the course of the impoverished streams or silted channels which form the systems known as the Chautang, the Rakisi (Devil's stream) and the Nai Naddi.

These three singular water-courses, though two at least originate as natural streams in the Umbala district, have evidently all been tampered with from time to time by well meaning or ambitious rulers. Indeed, the latest diversions of the Rakisi and the Chautang were due to the Ladwa Sikhs, and to prove the artificial character of the Nai Naddi in its middle course, one has only to ride along the miserable trench which represents what was once, no doubt, a fairly useful project.

A deal of cultivation depends on their precarious supply, especially on the Chautang, the main bed of which runs near the crest of the watershed till it impinges near Salwan on the Hissar branch of the Western Jamna canal, which is popularly said from this point to occupy the ancient bed of the Chautang, or rather of the Drishadwati. The mention of this mythical river leads to the still more famous Saraswati.

The Sarusti,—so the name of the deified river is now pronounced,—enters the present district of Karnal a little east of the town of Pihowa, and after dividing into several intricate branches, and spreading out in the rains in sundry "jhils" or swamps, passes into Patiala territory some twelve miles to the south and west of Kaithal. Near Pihowa the Sarusti receives the flood of the Markanda, another of the so-called hill torrents, or to speak more strictly, their combined waters are impounded against the low western escarpment of the watershed, and in seasons of heavy rainfall, turn the whole country, from Thanesar to near Kaithal, into a series of pestiferous lagoons.

North of these streams again the Ghaggar (in which some prefer to find the Drishadwati) passes through a corner of the district. The use of its water is a fertile source of disputes, with the Patiala villages especially.

The whole of this torrent-ridden tract is known as the Naili, and its reclamation is a task to which the local authorities have again lately been urged by the Government of the province.

The country lying between the Naili on the north and west and the Bangar, or light uplands to the south and east respectively,—the slopes in fact of the low watershed,—form the heart of the Kulchattar, or Kurukshetr, the Indian "field of Troy" scene of the Mahabharat legend, and still one of the most sacred spots of earth for modern Brahminists.

These stiff loam circles of the Kaithal and Karnal Tehsils are known to Revenue officers as the Nardak tract.

Mr. Ibbetson notes that Nardak is properly a title of the Kurukhet (or Kauru's acre) and would derive it from Nirdukh, the "painless."

So \* Huien-Tsiang,

"The two countries engaged in conflict, and the dead bodies were heaped together as sticks, and from that time till now the plains are everywhere covered with their bones. As this relates to a very remote period of time, the bones are very large ones. The constant tradition of the country therefore has called this tract the Field of Happiness."

The Chinese pilgrims, like some modern visitors, came to see things for themselves, and saw them, as a natural result, accordingly. Only in a severely spiritual sense could the most ardent cicerone have described the Nardak then, or now, as a "happy country."

This curious tract presents a stretch of hard upland platforms, alternating with sinuous hollows, water-worn, and in favourable seasons, water-filled by drainage from the former.

The upland bits in a moist season have a park-like aspect which has often been remarked, and in March and April when the Dhak scrub (*Butea*) is in blossom, or in the end of the rains when the low bush is festooned and studded with many sorts of flowering gourds, bindweeds, and gaily coloured mallows, the Nardak puts on a very picturesque appearance.

The crops of the Bangar differ from those of the Khadir chiefly in the relative proportion of the staples. Cane, of course, is grown only in irrigated plots, but flourishes in the Panipat Tehsil, where there is abundance of canal water.

In the Nardak, again, culture assumes an altogether different phase. Wheat is confined to the manured lands close to the village site, and watered at a heavy cost in stock and labour from the ring of wells that skirt the homestead, or by lift from tanks. For three or four seasons, moreover, there may not be enough water to raise spring crops at all, and the local husbandry always depend on the autumn crop mainly. Jowar and cotton are raised on the home fields and outlying patches, commanded by deep wells and reservoirs, but the staff of Nardak farming is the coarse rice thrown broadcast in the hollows after seasonable rains, the mud being trampled first by droves of buffaloes.

If copious rain falls in September, the rice is followed by a crop of gram, or cereals mixed with gram; but the mainstay of the Nardak, as regards its crops, lies in the rice, and when that fails—as has been the case on an average once at least in every dozen years—a dearth follows. Tillage alone would not support the population, which draws such wealth as it can boast from the

immense herds of buffaloes and neat cattle which its unrivalled pasture grounds support.

The normal rainfall of this grazing belt is less, perhaps, than 18 inches in the agricultural year (from June to May) and if, as has occasionally happened, not a drop of rain should fall from August of one year to July of the next, the grazing fails. If the rice and grazing fail together, or in successive years, then there is every risk of famine.

For nearly thirty years no general famine has visited the district, but from 1875 to 1877 the Nardak suffered most severely. A painfully impressive summary of the famine history of the district may be read at pages 23 to 25 of the District Gazetteer.

In 1886 there was no autumn rain, and when I rode in the last week of the following May through the south-west corner of the Kaithal Sub-Collectorate, where the wells are often a hundred and fifty feet in depth, I found a barren waste extending from the narrow strip edging the canal to the neighbourhood of Kaithal. A little muddy water lay in pools at the bottom of the deeper reservoirs; many of the wells had given out; the menials were deserting the villages, and the people had to fetch their drinking water in earthen pots from places sometimes four miles or more away. Troops of women and children might be met in the evening bringing jars full of the caper berry and the fruit of the *Salvadora* (pilu) for the subsistence of the household. For miles there was literally not a leaf of green to break the scorched expanse; and vegetable life seemed tied to the bare twigs of the *kair* (caper) and the ashen clumps of the "Ban" (*Salvadora*).

In the first week of July the rains burst with unusual force, and the danger for the time was over. The harvests have been more propitious since, but the agricultural condition of the whole district, except the irrigated parts of the Karnal and Panipat Tehsils, is precarious to a degree to which few parallels happily remain in North-Western India.

The Dehli-Kalka Railway now under construction, and the newly begun Sirsa Canal, which will traverse the heart of the Nardak and is expected to command the Rajaund circle, the state of which at a pinch I have just exemplified, should help to render the central portions less terribly insecure against the insidious approach of scarcity.

The cause of this insecurity does not lie solely in the situation of the tract on the very edge of the tropical rain belt, nor yet in the unyielding nature of the soil in the Nardak country. The subterranean water level shelves from north-east to south-west very steeply, and recedes precisely as the atmospheric supply diminishes.

In the Jamna valley the wells are seldom over 30 feet in depth, and where percolation from the old or new canal affects the water-table, a supply is available at 17 or 18 feet or even less from the soil surface.

In the Kaithal Tehsil, on the other hand, the spring level shelves from 18 feet in the north-west corner, through 70 feet in the Bangar, to over 150 in the southern border.

The Kaithal Bangar is a fringe of light and even sandy loam which skirts the Nardak pasture lands on the west, as the Karnal Bangar bounds them on the east.

The people who inhabit the district are hardly less diversified than its soil and climate. The Nardak is the home of Rajput clans, allied to the tribesmen of the North-West-Provinces and Rajputana : while the Bangar is largely held by strong communities of Jāts who have pushed their way, some in comparatively recent times, from older colonies of their nation in the tract from Dehli to Hissar, and the districts on the Lower Satlej.

The oldest settled denizens of the Khadir, except perhaps the curious race of Maghs, are probably the Tagās—a class of Brahman graziers and husbandman,—who in some respects recall the Gaddis of the \*Chamba Himalaya.

The sun-worshipping Tagas of the Panipat and Karnal alluvial strip are replaced northwards by a stock of Muslim Gadis, and there are Gadi villages in the Pihowa country also. I think the Taga and the Gadi may have had a common origin. The Tágus, also claiming to be Brahmans, are a sept, or rather guild of hereditary pilferers, who wander from Hardwar to Sakhi Sarwar beyond the Indus, “lifting” cooking pots and clothes at bathing fairs and such assemblies.

These call themselves invariably Tagās in their homes, which lie in a cluster of villages near the Grand Trunk Road north of Karnal, but the sacred thread has not protected them from registration as a criminal tribe.

Of sacerdotal Brahmans, who very properly repudiate the Tágu and his works, there is no lack, both of the Gaur and Sarsut subdivisions, but every ritual Brahman to the south and east of the Chautang proclaims himself a Gaur.

Pihowa is a Brahman town into which the offerings of the devout are poured to the estimated value of hundreds of thousands of rupees annually. The whole of Northern India is parcelled out among the leading priestly families, some of which have paid accountants to compile their registers of clients; but the less said, perhaps, of the way their income is popularly said to be spent, the better.

A yearly fair is held, and to this, pious Hindus from great

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\* Hunter's Orissa, vol. I, pp 243-46.

distances,—mostly new-made widows,—flock to bathe in the Sarsuti which flows through the middle of the town.

The Bias, Acharaj, and other “impure” castes of Brahmins, and the devil priests, or Dakauts, have been described by Mr. Ibbetson, to whose pages the reader must be referred for particulars regarding these, and many other interesting details of the local folklore and ethnology.

The Bhats, or heralds, also rank as Brahmins in a way, but have sunk in the social scale, where Muslemized under the style of Mirasis. Mirasis are again hardly separated from the Doms. The Mirasi is a perfect Autolycus at weddings and other functions among the Jâts, and again at the “solid funerals” in which the Rajput takes his pleasure sadly, as becomes a gentleman.

One often meets him on a raw-boned steed, its tail dyed in the fashion to a hair, and a pair of kettle-drums strapped across its withers, while the tails of a new pink turban, the fresh spoil of some magnanimous client, stream in the March breeze for yards behind the bard and genealogist. These “beggars on horseback” absorb a most inordinate share of the farmer’s gains, and help him, if recklessly disposed, in a variety of ways along the road proverbially open to the *nouveau riche* in all societies.

They reap their richest harvest from the Jâts for reasons which the pages of “Rambles and Recollections” \* can explain. Two generations back the lords of Dig and Bhartpur were barely recognized as even yeomen ; but seventy years of peace and comparative plenty have trebled the demand for pedigrees as well as other luxuries.

The Jât of the Panipat Bangar still bears a strong family resemblance to those doughty plunderers, and his pugnacious instinct and hastiness when the blood is up, in cudgel play, lead to many affrays and even man-slaughters. In the south-west corner of Kaithal, a group of Jât villages, taken over by exchange from Jhind are famous for their turbulent behaviour. A certain Jât from one of these lately defied the whole brotherhood from his own village to the neighbourhood of Rohtak to prevent his carrying out a wedding which a grand committee of elders had condemned, and was much aggrieved because the District Superintendent would not let him have an escort of Police on payment, for a triumphant progress through the villages of his dearest enemies in the heart of Jhind.

A leading Chaudhri, however, gravely informed me the other day, that all this pride would have an early fall, because the

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\* By the late General Sleeman.

guardians of the tribal morals had taken steps to "sue the father of the bridegroom before the Rohtak Judge for bigamy."

A heap of matters of this color, that would have ended forty years ago in bloodshed, are now fought out in the Courts of law, to the advantage of the public peace, but with too often ruinous results to the litigating champions.

Law suits, and seclusion of their women, as communities or individual families advance in means, indulgence too at times in fashionable vices, threaten to sap a class that is, in some respect, the best among the rural population.

The Ját is a born farmer; but he makes an excellent soldier too, and many used to enlist, especially in Murray's Horse (the XIV Bengal Cavalry.)

The Ját women still enjoy more freedom than those of any other classes, and wield much influence in their homes and villages. In the Kaithal tract the widow of a village headman often claims his office, and such appointments continued to be made until quite recently.

The Rajputs are, perhaps, the most ancient settlers after the Tagas, but the clans which now predominate in the district have taken the place of older septs, such as the Pandirs, representatives perhaps of the mythical Pandus—the Tunwars, (Tomaras), kindred of Pirthi Raja and his predecessors on the throne of Dehli, and the Bargujars, more ancient possibly than either. A few Bargujars linger in Indri, and tradition bears that they originally held Kaithal, Guhla and Siana (near Pihowa).

The Junwars still survive in Gumthalla and other Kaithal villages, but the oldest families are in Panipat, headed by their chaudhri, Ryasat Ali, the energetic president of the Local Board.

Of the Pandirs only their name survives in the town of Pundri, and their ancient capital of Pundrak near Karnal. They were driven out, so says the Chauhan legend, by the Chauhans, who came from the country near Moradabad (east of Jumna) some five centuries ago, and overran the land as far as the grazing grounds of Hariana (Hissar) and the wastes of Eastern Rajputana.

They are mostly Muslims now, but it is not uncommon to find two Pattis (wards) in the same village, one of the ancestral creed, the other Musalman, and often becoming attached to the strict reforming movement which has made of late years great strides in the Eastern Panjab.

The Chauhan is the typical Rangar (man-at-arms) of the debateable land. The "Ran," or battle field of the Nardak is his chosen home, where he can dream away the time beside

his browsing herd, till an opportunity occurs for giving or resenting quarrel on some straw of rustic sentiment. He is brave to a fault, proud, and on principle lazy, faithful to his tribesmen and his salt, and bitterly jealous of intrusion within the pale of his particular community; yet he often falls a helpless prey to the first rogue who finds a chance to play upon his weaknesses.

Until quite recently no Chauhan would touch the plough, and cultivators of inferior rank have found their way into many of the finest villages, first as tenants or even labourers, then as purchasers of the proprietary right which the ancient lords of the mark looked on for the most as a distasteful burden. Now-a-days they are awaking to their irretrievable mistake, and admit their folly with a frankness which is one of the chief redeeming points in a very chequered character. There are many patient and industrious husbandmen now among the Chauhans, but they are greatly handicapped by the rigid seclusion of their women.

The Chanhan estates lie chiefly in a belt stretching from the borders of Jhind along the course of the Chautang, almost to the Jamna bank in the Indri Parganna.

The Mandahirs, the next in importance of the Rangar clans, hold the strip to the south and east of the Chauhans, and have also villages to the north in the Kaithal country. They appear to have come from the west originally. They are even more generally Muslimized than the Chauhans, and their views regarding property in cattle, to put the case politely, even more archaic. If possession of a buffalo be nine points of the law, eight parts of the property may be looked on as clean gone if that buffalo happens to stray across the boundary of a Rangar village. By Nardak law the right to cattle turns on the

Good old rule the simple plan  
That he should take that has the might  
And he should keep who can,

and a waif or stray will only be restored on a proper embassy from the community which claims the beast, after due formalities, and the payment or promise of consideration to the finder.

Not long ago the Mandahirs of a village near Karnal presented to me "their grandfather," said to be a hundred years of age, and the owner of a valuable mare that had been privately impounded by a neighbouring village, on the paltry excuse that she had eaten sundry roods of wheat in the course of a morning ramble. All tribal forms had been duly urged in vain, and as a last resort, the station house officer invoked, but the impounders were obdurate, and the mare was now far away in the Frozepore district.



On inquiry from the tribal headman (Zaildar) it was explained that the account was held by competent judges to be two bullocks and a buffalo calf against the claimant's village, and that the venerable age of the complainant was a complication in itself, because, in a rather stormy youth, he had run up sundry personal scores, the wiping out of which in these less adventurous times was hardly feasible.

The work of the Police, as may be easily supposed in a pastoral district under such conditions, is no sinecure in itself, and does not make at all an impressive show on paper.

A complete sketch of the rural population cannot here be attempted. Rors, Malis, Kambohs are among the most industrious ; the Rors are perhaps the leading rural class of the future ; they are usually well off, and sometimes even wealthy. These are all nominally Hindus. Rains are Muslim-Malis. Their hamlets surround the towns where they anciently plied the trades of market gardener, seedsman, and green-grocer, to which they have now added farming both as tenants and proprietors. They are thrifty and skilful cultivators, and at Panipat the herb-growing industry, probably introduced by the Arabs, is in their hands. The chief herb staples are Kalaunji (*Nigella* a Syrian product) and camomile (*Babuna*). One of their chief men in Karnal is a headman of the town, a Doctor (by acclamation) of the law of Islam (Maulvi) a Municipal Committee-man and a keen advocate of vaccination and other modern lights. The Rains are very commonly puritans (Ahl-i-Hadis) by profession.

Gujars, originally herdsmen and clients of the Tunwars, abound in the Panipat Khadir, and are found in the Naili tract of Kaithal. There are both Hindu and Muslim Gujars. The Hindu Gujars of Keorak were Rajputs, but came under a social ban, and so used to destroy their infant girls, rather than give them to their fellow Gujars, and special vigilance is still maintained in Keorak and the neighbouring Tunwar settlement of Pharal. Infanticide is also suspected to linger in a Ját village near Guhla.

The subsidiary and menial castes would take a treatise in themselves. Water-carriers, carpenters, oil-pressers, potters, barbers, weavers, washermen, skimmers and scavengers are generally diffused, and as the labour market opens, their attitude is an increasing source of anxiety, not to say complaint on the part of the farmers.

The washermen, even in Hindu villages, are nearly always Musalmans. The Panipat weavers make well known but rather high priced blankets. The butchers are a thriving body, daily readier to assert themselves. They deal in flocks and wool, also in hides, and many drive a trade as pedlars in the villages.

It is a saying that a Panipat Qassab will not break his fast till he has turned a penny.

Gadariyas (wandering shepherds) and vagrant ironsmiths, who bring their stock in trade and families in carts from Rajputana in the winter, and ply their craft from village to village, are curious relics of unsettled times. More questionable wanderers are the Naths. Badis, and other gipsies

The Biloch are a highly criminal tribe, now scattered in villages in the north-west corner of the Kaithal tract. They are house-breakers and work in gangs of five to ten. Taking different disguises they travel by road and rail to distant towns, visiting even Bengal and the Bombay Presidency. The captain of the band passing, like Abdalla in the Arabian Nights, for a merchant, or as a mendicant, marks down the house of some rich banker or official, and having given the others all the clues, decamps. The next dark night his comrades enter the dwelling and carry off the valuables.

Dhanaks (bowmen) and Jogis are very ancient, possibly aboriginal classes: the former were village watchmen once: the latter (who are quite distinct from the sect of Hindu Sadhs) are the priests of the village Lares, and are reckoned as Musalmans. In every Ját village, and in some of other tribes, may be seen a pillar made of masonry or mud which is called "Khera," or "the mound," and is sacred to the genius loci.

Near Pihowa these retain the form of the Buddhist Chorten, impressed perhaps by the edict of some zealous Emperor. Another aboriginal race are the Maghs of whom a few survive in the Indri Khadir. They are looked on as "uncanny."

Among the agricultural classes are reckoned sundry colonies of Sheikhs, Syads, and Pathans, also the petty Sikh Jagirdars (assignees of land revenue), mostly JátS from the Manjha, (the tract that is about Amritsar and Lahore), who abound in the Indri Pargana.

The Chief Syad colony is at Barsat on the Jamna bank to the north of Panipat, but there are other settlements, of which those of Guhla and Siana in the Pihowa country have perhaps the most singular history, being descendants of Carmathian Sheikhs expelled from Persia by an orthodox Caliph.

Barsat was the scene, under the Tughlak kings, of a tragic episode: one of the Syads having shot the king's nephew on the royal road near Panipat, all his kindred were collected in a house, which is pointed out to this day in the village, and massacred in cold blood by a detachment of Pathans from Panipat.

The Sheikhs are chiefly found in Panipat, where there are two great sections, the Ansar, and the Muhajarin or Makhдум

**Zadas.** The Ansar are genuine Arabs, and have furnished several distinguished men to the roll of Indian history. Their present head is the Nawab Fazl Ahmad Khan, president of the Municipal Committee of the town. The Makhdum Zadas are sprung from Seikh Jalaluddin (\* Kabir-ul-aulia, *i.e.*, the "Grand Master"), whose shrine is one of the precious things in Muslim and in antiquarian eyes of the district. These furnished Qazis to the neighbouring tract in former times, and still are often found in public employment.

Panipat is also the seat of a colony claiming descent from the royal sept of Lodi. There are Pathans in Kaithal too, and in Panipat, Karnal, and Kunjpura are other families of Afghan origin, in which Pashtu was until quite lately spoken, fragments, doubtless, of the Persian and Abdali armies. The Pathans of Bassi Akbarpur in the Karnal Khadir will be mentioned later.

The Kunjpura Afghans still follow the profession of arms, enlisting mostly in the 5th and 6th Bengal Cavalry.

The Nawab of Kunjpura is the head of the Rohilla element. In Imperial Deeds his ancestors are described as Kakars (of the Sind border,) but the actual founder of the house, and first ruling Nawab seems to have come from Gurgusht in Chach-Hazara, north of Rawalpindi, and the legend bears that he began his fortunes through guiding Nadir Shah by a secret ford of the Jamna to fall upon the rear of the Imperial army.

My ward, Nawab Ibrahim Ali Khan, is being fitted for a somewhat different though not, it may be hoped, less useful and distinguished part, at the Aitchison College. His Jagir income is Rs. 30 558 a year, and the tenant roll stands at Rs 17,153. The rents, when the Court of Wards assumed its charge, were almost all levied in kind, a system dear to the local gentry, but ruinous to their interests and often to the tenants as well. Now all have been converted into money terms, fortunately without a single suit, and the old regime is perhaps regretted only by the middlemen and hangers-on, who thrive by fleecing, with the help of appraisements, weighments, collections, actions and executions for arrears, both their masters and the farmers.

The next in precedence of the district aristocracy are cousins of the defunct Kaithal family, the Bhais, namely of Arnauli and Sidhuwal, who own extensive grants of revenue, and also proprietary rights in the north-west of the Kaithal Tehsil. Bhais Jasmer Singh and Anokh Singh are Honorary Magistrates within the limits of their jagirs. Other Sikh notables are the Sirdars of Shamgarh, Sikri and Guda, and a host of minor Jagirdars in the Indri Pargana.

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\* Or Kabi-ul-aulia.

The assigned revenue of the district totals Rs. 1,95,000 per annum, and as the bulk of this is collected for the grantees by the State machinery, and the lesser Sikh assignments are still divided on the original "horseman's shares" derived from the muster-rolls of the Khalsa "Misls," the distribution and succession work thrown on the Collector's office may be imagined.

The best known of the Karnal Jagirs, however, is the notorious Mandal grant, which when originally fixed in 1806, amounted to the making over hand and foot of the husbandmen of the Karnal Parganna to a band of Condottieri, originally Muslim Jâts from the Samana country, whose room the authorities of Meerut and Saharanpur appear decidedly to have preferred to their company.

The leading Mandals nevertheless, the titular Nawab Azmat Ali Khan and his half brothers, whose lawsuit with the head of the house, decided in their favour by the Privy Council in 1881, is a cause célèbre, have succeeded in retaining great estates in the Meerut and Mozafarnagar districts of the N. W. P.

An active member of the family is Shamsheer Ali Khan, president of the Local Board of Karnal, and also Chairman of the Municipal Committee of the town.

The town lands of Panipat are among the local benefices, revenue to the extent of Rs. 25,000 being released in perpetuity annually to the Arab, Sheikh, Pathan, and Tunwar owners; and the chief shrines of the city have independent grants in neighbouring villages.

At every turn, indeed, the local revenue officer encounters monuments of the piety or profusion of successive dynasties, often only made to-day to be swept away to-morrow, but scrupulously maintained and even restored by the conservative power that has taken up the tangled threads of past confusion.

These liberal drafts upon the public purse have hardly, as a rule, been turned to the best account by the beneficiaries. The Jagirdars are usually milch cows for enterprising usurers, and the debts of certain cadet branches of the Mandal house are on a scale which it would hardly be amiss to call magnificent. The worst of a state of things, which in its local colouring sometimes recalls the scenes and situations made familiar for another country by the pen of Lever, is that it has reacted in a mischievous degree on the farmers and the peasantry, especially of the Nardak, where a great portion of the Mandal belongings lie.

In the Kunjpura villages, too, the Chauhan cultivators who were given a title to the soil, became exceedingly depressed, and in either tract reductions of revenue and rents have followed at repeated intervals.

The settlements effected by Messrs. Ibbetson (1883), and Douie (1888), it may be hoped have turned the tide, but if so much of this imperfect sketch is engrossed by what is likely to be soon forgotten history, it is because the district may be said, without a paradox, to have only just begun to have a present.

If India as a whole has been pictured as a land of regrets, the eastern Panjab might be called a burying ground of bitter reminiscences. The Karnal district in particular, though a treasure house for the antiquarian or naturalist, has been very little in touch with busy modern interests. Even as a field for sport,—and here its fame needs no addition,—it owes its excellence in the past, to wastes unpeopled by misgovernment or centuries of war, and to the swamps and reed beds fostered by the old canal, a much abused but long-lived institution, which would take an essay in itself, to say nothing of the tons of periodical returns and other literary silt for which it has to answer. To literary censors it might plead in extenuation General Strachey's Minute of 1867, or Mr. Ibbetson's graphic description of the evils wrought through the abuse of irrigation by the people.

Tried on its merits, the Western Jamna Canal may have to justify its past, but it boasts at least of a grand achievement in its present. The new main line and its subsidiary branches are silent witnesses, but to those acquainted with the district they are more than eloquent. Moreover, side by side with the high level distribution works, a great system of drainage has been planned and in part completed, of which it is not too much to say that it has changed the soil and climate of whole areas lately drowned or water-logged.

The Bijna and Bazida Jhils still harbour snipe, but their glory is departed. The Churni swamp is doomed, and the fens near Rer were under excellent wheat when I last saw them.

Drainage apart, the district still abounds with certain kinds of game. Quails, sand-grouse, plover, pigeons, (blue, and green) and the grey partridge are common. Black partridges collect in certain spots in certain years, and a few are always found in most localities. Of water birds several sort of geese and ducks are plentiful in parts, and cranes abound. I have never seen the great bustard, but the "floricane" is said to reach the Kaithal tract.

Hares are common. The antelope is found throughout the district, but is most frequent in the Kaithal tract. Ravine deer are rather few, I think, and possibly are disappearing. Hog deer swarm in certain jungles in the Indri Khadir. The blue bull is frequent in the Nardak scrub, but very shy. Wild pigs are a flagrant pest and often dangerous.

Of \* larger game only leopards are left, and as three of these were killed last year, the supply is perhaps nearly exhausted. One was a large male, who haunted the old cantonment jungle in 1885, and was said to live exclusively on pigs and donkeys. He appeared this spring near Indri where the bulrushes of a disused canal cut gave him shelter, and mauled a party of gipsies whose dogs disturbed him, killing one man and seriously wounding another. He was ignominiously done to death at last by a gang of Nathis who banded to revenge the death of their tribesman. This leopard pretty certainly had strayed from the Nahan forests.

Many lives are taken annually by snakes, and a few by crocodiles. The District Board paid Rs. 5,152 in rewards for cobras and karaits last year; also Rs. 210 for jackals which are very mischievous to crops,—especially to cane and maize. Deaths from the bite of mad jackals occur with painful frequency. Wolves are comparatively few.

Arms are lent from the district lumber-room for the destruction of noxious beasts and the protection of crops, but the difficulty is to get the villagers to utilize their licenses. The Hindu Rajputs and the Jâts will hardly use a gun except under compulsion, and even Musalman farmers usually take out the license in the name of a Faqir or other village menial. The greatest agricultural plague of all,—greater even than pigs or antelopes perhaps,—is that of monkeys, and these the district officer cannot well proclaim for obvious reasons though the cultus, in the villages at least, is certainly decaying.

Fish are plentiful, but the revenue, public or private, derived from fisheries, is trifling. Pages might be written on the birds and insects of the tract, also the trees and grasses, to say nothing of flowering shrubs and herbs of use or interest. The † Pipal is indigenous in the Nardak waste, and the same region is the home of a wild cotton which seems to be the same as that previously found in Rajputana by my friend Mr. Duthie.

The grass flora of Karnal is rich and varied; the ‡ Anjan (or Dhâman) grasses being perhaps the finest kinds for hay at least: and the local capabilities for horse-breeding and cattle rearing are exceptional. The Government is acquiring the old cantonment lands for a grass farm and nursery for remounts, and a great impetus to local breeding is expected.

\* Lions were found up to 1821, and tigers up to 1827.

† Dr. King? (Fl. Br India Pt. XV, p. 513 under *F. religiosa* L.) refers, no doubt, to the range of public collections.

‡ Species of *Cenchrus* and *Pennisetum*.

General Parrott, as every lover of the horse in India knows, had shewn the way in this direction, and his home farm, which with some concessions from the State, he carried on from the breaking up of the Government stud in 1876, should, for those interested in the resources of the country, need no fresh description.

The District Board has built stables for two Government sires at Panipat and is building others, and the Kunjpura estate has bought an Arab sire for local use, selected by Mr. Hallen's kindness through the department, so that in time horse breeding will resume the place, it may be hoped, which it traditionally held when Akbar settled certain Afghan breeders at Bassi, since called Akbarpur, in the Karnal Kadir.

Formerly horses were bred at Keorak and elsewhere, notably by the Gujars, who are still the great promoters of this vital industry. A horse fair, with an agricultural show combined, was started in 1887.

The sphere of this rough outline of an "unimportant district" has been monotonously bucolic, but the tract is so preponderantly agricultural, that there is really little to describe in the district of to-day, beyond the people and its products. The ways and customs of the rustic folk provide a fund of interest in themselves, but it is not given to all of us to glean, even in this tempting field, after the harvest garnered in the pages of the Settlement Report of the Panipat Tehsil and Karnal Pargana.

Trade and traders exist, but beyond the typical banking and shopkeeping pursuits there is little market. Kaithal manufactures saltpetre, but the industry is much decayed, the Salt Rules having led the capitalists, so at least they state, to shift their works to the neighbouring Patiala territory. Sal ammoniac, too, is made in different places, notably in Gumthala, a large village near Pihowa. Panipat has glass works, chiefly devoted to turning out the mirror glass, spangles of which are let into the embroidered cloaks and petticoats of the country housewives. The brassware of the same town is excellent and famous, and its silversmiths make little hollow beads ("pearls") which are much admired for shape and finish.

The Purbia colony in the old cantonment Sadar Bazar at Karnal consists largely of Mochis whose leather work is justly in demand. Many of these are well-to-do and receive heavy contracts for boots, saddlery and other equipment from regiments and the Police.

The imports into the district are mainly cloth and goods of a like class from Dehli. Of exports, cotton, gram and oilseeds bulk the most. Of late years a great demand has sprung up for seeds—rapeseed especially, from Dehli and even Bombay,

and buyers came at the harvest of 1888 to the farmers' very doors from distant markets.

Karnal stands fifth among the gram producing districts of the province.

Cotton "goes to press" at Dehli or Ambala. The local cane is universally crushed by mills of the Beheea pattern. At first the mills were hired out by speculative Banias, but now in the stronger Jât and Ror villages, every "Lana" or cultivating partnership keeps a mill of its own, the initial cost being borne by the head proprietor who gets an extra share, on the same principle as the contributor of ox-power.

An extensive through traffic holds across the district from the "Jangal Des" to certain ancient marts in the Meerut and adjoining districts. The Panjab camel-men and carters bring down gram, and take back gur and cloth in return.

Excepting isolated patches there is only one metalled high-way, the Grand Trunk Road (Dehli-Umbala) in the district. The hard Nardak soil makes an excellent road, except after heavy rains, when traffic even between adjacent villages is suspended.

There are three municipal towns, viz :—

Town.	Population in 1881.	Class of Municipal Committee.
Karnal ...	23,133	2nd class
Panipat ...	26,572	Do.
Kaithal ...	14,754	Do.

Panipat, of course, is mainly Musalman ; in Karnal and Kaithal, the Hindus are predominant.

Kaithal is a picturesque and interesting place. The district rest-house was built as a reception palace by Bhai Ude Singh, who also made the pretty but uncomfortable house at Pihowa. The Kaithal façade mounts to four stories, and from the highest one commands a striking view across the sacred lake of Bid Kidar, fed from the Sarusti, of the ruined fort and lofty buildings of the palace and the cluster of shrines and temples opposite. The house and town are reached by a tasteful bridge over the Bid Kidar aqueduct, and the whole surroundings are quaint and old-world.

The Brahmans of Kaithal and Pihowa have been spoken of before. In Kaithal, Khatries and Banias are evenly divided. In Karnal the mercantile class is composed chiefly of Mahajans.

In Panipat there are no Khatries ; but the Kayaths—who still



monopolize a large proportion of the local loaves and fishes—are strong. Intellectual acuteness among the Kayaths and also the Brahmans, especially of Panipat and Kaithal, stands at a high figure.

The district staff is on the usual lines of an outlying Panjab district. Except the Deputy Commissioner, all the Revenue officers and Magistrates are members of the Provincial Service, usually Indians. The Deputy Commissioner is also District Judge, but regular original suits and appeals in Munsiff's cases are taken by a Subordinate Judge specially invested.

A European Police officer and a Civil Surgeon, make up the Civil strength, the Medical officer being also Superintendent of the District Jail. The Military Department is represented by the Remount Officer in charge of the newly constituted rearing farm, whose duties, however, take him to the principal fairs and markets throughout the province.

The Canal officer's head quarters are not in the district : but there is a Sub-Divisional officer of the provincial branch of the P. W. Department at Karnal.

There is a Local Board in each tehsil, and the District Board is composed of Local Board delegates and certain nominated members. The Deputy Commissioner is ex-officio president, but I have seldom had to preside in person at the meetings. The local bodies have a paid Secretary and one Engineer. This statutory element, however, by no means exhausts the scope of Local Government. There are 38 tribal headmen, or Zaildars, who receive pending office, substantial grants from the revenue of a specified estate usually the village of their residence, and no less than 2,650 village headmen ( " Numb r-dars " ) In some estates there is a headman on an average to every 50 households. This is due in part to the temper of the Játs who hold tenaciously to the axiom, that " every man is as good as his neighbour and a great deal better too." The total gift to headmen from the district revenue is about Rs. 42,500 per annum.

Of late, however, the tribal and village headmen have had a fair amount to do in return for this liberal expenditure. The Zaildar can be made the district officer's sheet anchor in matters of local progress and improvement. Rural Police and the registration of births and deaths are worked through the village constables who are nominated by the headmen.

The Government revenue, naturally, is derived mainly from the land assessment. Last year's collection from this source came to Rs. 6,57,808. Suspensions in bad years are made and specially enjoined where really necessary, and remissions on a great scale have been unhesitatingly applied in view of local circumstances.

Canals contributed in 1888-89, Rs. 20,15,000, which in Karnal is practically an item of land revenue also. The relative importance of other heads of public income may be gathered from the latest figures thus:—

<i>Excise.</i>	<i>Stamps.</i>	<i>Income Tax.</i>
12,458	48,921	over 40,000

The population was returned in 1881 at 622,621. With recent territorial additions it is probably now over 700,000. The people are, as a rule, abstemious, and drinking in the rural parts, if anything, is on the decrease. Recent administrative steps have done something to check the use by townspeople and clerks of "Prime Jamaica Rum" and other poisons pushed by energetic apostles of free trade in alcohol from the the Bombay presidency. I wish I could say the same for smuggling and illicit distillation, also the use of morphia and "pick-me-ups" concocted with the help of Bhang, on which the Government revenue cannot exercise so marked a check.

There are no resident European planters or merchants in the district, the owners of the Skinner's Estate Zemindaries being absentees. Mr Carleton, of the American Presbyterian Mission, leases a Government estate in the Kaithal Tehsil, where he has done something to improve the local breed of cattle, and set an example in the way of dairy-farming.

There are 5 dispensaries maintained from local funds and 5 middle schools, but education is as yet in a very backward state. Medicine and surgery are better appreciated by the rural population at least.

The S. P. G. Mission at Delhi has a branch at Karnal, and maintains a dispensary primarily for women and children in the town; their organization includes also schools for girls and Zenana visiting—a bridge between English and Indian homes,—which is much and growingly appreciated by all creeds and classes. The ladies of the Mission also supervise, by a special arrangement, the work of the Zenana hospital, started by a district association for the extension of medical relief to women. This association, which includes most of the representative gentlemen of the district, maintains a certificated nurse and otherwise provides, with help from local bodies, for the very pressing objects indicated by its name. Mr. Carleton at Santokh Majra, and Dr. Carleton whose dispensary at Ladwa is on the border, also furnish aid to the sick of the district.

The distribution of quinine in the malarious season is an annual care to the local bodies and to all interested in the welfare of the people. The ravages of fever at times are terrible. In 1884, 1,629 deaths were estimated to have been caused by fever in the town of Karnal alone; and 22,800 in the district as a whole. The condition of the district formed the

subject of a note by Sir Charles Aitchison, in which the thanks of Government were expressed to the Civil Surgeon and the Mission-workers for their efforts in combating the epidemic. Since then improved drainage for the environs of the town and station has been established : one of the worst tanks has been closed, and a new one made in its place by the kind assistance of the Executive Engineer of the Karnal Division of the Western Jamna Canal, and a periodical supply of running water from the canal secured for the chief reservoirs.

The great evil from which the district suffers, since the fighting times at least, may be said to be, in more senses than one, stagnation. We are trying, however, to amend, and the railway no doubt will act as a safe but powerful stimulant.

I have said nothing of the religions of the people. The subject is too intricate and too important for the present treatment. For their morals I would quote from Mr. Ibbetson :—

I have a great liking for the ordinary villager. His life is one of monotonous toil under very depressing circumstances. He grumbles much, but only as a farmer is bound to do ; and he is marvellously patient, cheery, and contented on the whole. He is often exceedingly intelligent considering his opportunities, he is hospitable in the extreme, and he loves a joke when the point is broad enough for him to see. His wants are easily satisfied."

"I will even say that, according to his standard, he is moral, though his standard is not ours. The villager looks at the end, and not at the means. If he honestly thinks that his friend is in the right in his claim, a respectable man will tell any number of circumstantial lies to produce the same impression on the mind of the Judge. But if he thinks him in the wrong, he will not bear evidence for or against him ; he will say that he knows nothing about the matter. And when formally confronted by the whole brotherhood, a villager will rarely persist in a claim which he knows to be false. Of the good faith that governs the mass of the people in their dealings with one another, it would, I believe, be difficult to speak too highly, especially between members of the same community."

To the well disposed bearing and courtesy, according to their lights, of whole classes of the people, every one who knows them well can witness. The gentry, the substantial yeomen, and many prominent citizens have freely given their influence and resources in the cause of order and the public good on numerous occasions, and in the fiery trial of 1857, the heads both of the Kunjpura and Mandal houses rendered services duly rewarded at the time and still amply remembered.

Loyalty may well be looked for from a district that has suffered so deeply in the past, as keenly to enhance the blessings of present peace and the promise of the future.

J. R. DRUMMOND.

## ART. V.—AN EX-LIEUTENANT-GOVERNOR ON INDIA.\*

THE fact that one of the ablest Lieutenant-Governors that India has ever had, thinks it worth his while to write a book about India, and to correct many errors that prevail in England in connection therewith, is a sign of the times. A sign that the times are out of joint, and that heroic efforts are necessary to put them right. A sign that England's enemies have met with some success: that misrepresentation is making headway, while seditious sentiments are more openly expressed than at any previous period of Indian history.

It behoves those who know something of India and its administration to write and give the public the benefit of their knowledge. If the enemies of England and India are drilling their forces for systematic and repeated attacks on the existing order of things, it is surely necessary that there should be a serried phalanx of defenders, alert against treacherous surprises, and ever ready to combat falsehood and misrepresentation. It seems to us that "India" is an outcome of the times. How can the truth prevail if those who know it sit with their hands lazily folded, and never tell the public what they know? The appearance of this book shows that it is at last coming to be thoroughly recognized, that officials and ex-officials ought to do what they can to stem the tide of misrepresentation, and not let the enemies of India have it all their own way. Officials have all the information and material for writing, and if every official on furlough or on retirement would write but a single article, we should have an instructed public, instead of as at present, one that is either uninstructed or wilfully misinstructed. Sir John Strachey has had a good innings, scoring three figures. If we cannot all score three figures, we can score two, or at least one.

The author points out that the differences between the different countries in India is greater than those between the countries of Europe. Scotland is more like Spain than Bengal is like the Panjab. There are no countries in civilised Europe in which the people differ so much as the Bengali differs from the Sikh. An educated Mahomedan gentleman of Northern India has more in common with Englishmen than with the Bengali graduates of the University of Calcutta.

\* India : by Sir John Strachey, G. C. S. I. Kegan, Paul, Trench & Co., 1, Paternoster Square, 1888.

The first and most essential thing to learn about India, is that there is no country of India possessing any sort of unity, physical, political, social, or religious; there is no Indian nation, and no people of India. When that *pons asinorum* has been got over, knowledge about Indian matters becomes easier to acquire.

A good portion of Sir John Strachey's book is purposely elementary, because he has written for English readers, and he has recognized the fact that he has to dispel an ignorance, in comparison with which Cimmerian darkness is the sun itself. And this is no rhetorical hyperbole, as the knowledge of even those who are in a manner informed is often confined to Macaulay's Indian essays and the memoir of Mr. Justice Onocool Chunder Mookerjee, supplemented by a few magazine articles by such prejudiced writers as Messrs. Digby, Hyndman and Seymour Keay, the relation of grievances by a few law students and Dadabhai Naoroji, and the outpourings of those who, like Amrita Lal Mookerjee, have been asked if they could not try to "feel very bad" about India, and then write something of a harrowing description. But as the *Calcutta Review* is read principally by Indian readers we will pass over the chapters which describe the physical features of the country, the constitution of the Government, the army, the public revenues, the foreign trade, taxation, home charges, public works, and education.

In speaking of the administration of justice, the writer refers to the wilderness of enactments and circular orders, and the chaotic state of the law which existed prior to the transfer of the Government from the Company to the Crown :—

"These difficulties were increased by the devotion of the superior Indian Courts of that time to technicalities which survived long after they had ceased in England to be seriously mischievous. Even in the later years of the East India Company, the Civil Courts often seemed to be intended rather for the performance of certain forms and ceremonies than for the administration of justice."

No wonder that the Government shrank from inflicting such evils on newly acquired Provinces. A simpler form of administration was found to be not only cheaper, but better. Thus arose the distinction between "Regulation" and "Non-Regulation" Provinces. But it is a very common mistake to suppose that in the latter, the administration was conducted in a rough and ready way, in accordance with each officer's notions of equity, unhampered by law. The Government of the Panjab in 1860 really deserved, *quoad* the judicial administration, the name of a Government by law far more than the Government of the North-Western Provinces or of

Bengal. In the former case the laws, though simple, were rational, intelligible, and certain ; in the latter case the system was so chaotic that there was virtually almost no law at all. When the admirable codes of law and procedure were introduced, less change had to be made in the system of administering Criminal and Civil justice in the Non-Regulation than in the Regulation Provinces. The best code, the Penal Code, had been completed by Lord Macaulay, while he was in India, between 1834 and 1838. During the next twenty-two years it was revised from time to time by Lord Macaulay's successors, and especially by Sir Barnes Peacock, the last Chief Justice of the Supreme Court of Calcutta. ' The long delay in the enactment of the Penal Code," remarks Sir James Stephen, " had thus the singular, but most beneficial result of reserving a work which had been drawn up by the most distinguished author of the day for a minutely careful revision by a professional lawyer, possessed of as great experience and as much technical knowledge as any man of his time. An ideal code ought to be drawn by a Bacon and settled by a Coke." Sir Henry Maine says of the Indian Codes: " British India is now in possession of a set of codes which approach the highest standard of excellency which this species of legislation has reached. . . In form, intelligibility, and in comprehensiveness, the Indian Codes stand against all competition." Sir James Stephen has pronounced the Indian Penal Code to be " by far the best system of criminal law in the world."

Any account of the administration of justice would be incomplete without a reference to the " Black Act," and Sir John Strachey alludes to the furious opposition with which this measure was received in Calcutta. Up till 1836, European British subjects were under the jurisdiction of the Supreme Courts alone. The Black Act (XI. of 1836) decided that they should be made amenable to the Civil Courts of the Company, and that in this respect no distinctions should be maintained between them and the nations of India. The honor of having insisted upon passing this wise and necessary law is mainly due to Lord Macaulay. The opposition of the Europeans, although to the last degree violent, was virtually confined to Calcutta, and as the number of the English outside the Presidency towns was then comparatively small, the outcry against the Government was less formidable than that of 1883. Lord Macaulay describes in a minute the state of things that then prevailed :—

" Till the passing of Act XI of 1836, an Englishman at Agra or Benares, who owed a small debt to a native, who had beaten a native, who had come with a body of bludgeon-men and ploughed up a native's land, if sued by the injured party for damages, was able to drag that party before the Supreme Court of Calcutta,

(a distance perhaps of 1,000 miles), a court which in one most important point—the character of the judges—stands as high as any court can stand, but which in every other respect I believe to be the worst in India, the most dilatory, and the most ruinously expensive. . . . The expenses of litigation in England are so heavy that people sit down quietly under wrongs and submit to losses rather than go to law, and yet the English are the richest people in the world. The people of India are poor, and the expenses of litigation in the Supreme Court are five times as great as expenses of litigation at Westminster. An undefended cause, which might be prosecuted successfully in the Court of King's Bench for about £8, cannot be prosecuted in the Supreme Court under £40. Officers of the court are enabled to accumulate in a few years, out of the substance of ruined suitors, fortunes larger than the oldest and most distinguished servant of the Company can expect to carry home after thirty or forty years of eminent service. I speak of Bengal, where the system is now in full operation. At Madras, the Supreme Court has, I believe, fulfilled its mission. It has done its work. It has beggared every rich native within its jurisdiction, and is inactive for want of somebody to ruin."

And this criticism comes from one who, as an English barrister and lawyer, was prejudiced in favour of the Supreme Court. It is said that the Original Side of the High Court at the present day runs the Supreme Court, in the matter of expense, a very close second.

The author does not touch on the subject of religion at great length. It is doubtful whether any two Hindus taken at random would give the same or even similar definitions of Hinduism. The future religion of India is one of the most interesting problems of the day. The educated males are more and more giving up religious observances to the females. Of course the same tendency is noticeable in European countries, where the number of women who attend places of religious worship far exceeds that of the men; but the causes are very different. In Bengal numbers of the women of the educated classes are coming under the influence of Christianity, or at least Christian influences. The work done by Zenana Missions has often been disparaged, and Missionaries spoken of as a class contemptuously, because here and there a member may not have sufficiently shaken off his worldly instincts. But they do much solid good work, and they are gradually reaching the men through the women. The cry of "Hinduism in danger" and the anti-kine killing agitation have not emanated from the orthodox class; they are rather political than religious movements, started and fostered by those who have lost their own religion and acquired no other. It is these men who know that a nation cannot be a nation worthy of the name, if it is not influenced by religious and moral sanctions, and moral sanctions are ultimately the sanctions of religion. It is these men who thirst for something to fill

up a terrible void, and yet do not wish that void to be filled up by Christianity or Islam. Some join the ranks of the Brahmos, and hence it is only natural that Brahmoism should exhibit a tendency to split up into different sects or sub-sects. Others get along without religion until the autumn of their middle age, when they either revert to orthodox customs and observances, or derive solace from a sort of educated religious self-training, consisting chiefly of meditation (*dhyan*) and the reading of the Veds. An increase of religious feeling among the educated classes will not result in an increase of pure Sivaism or pure Vishnuism. The temples of Sri-rungum are thronged with Sivaite devotees in certain months of the year; but you may count ten women to one man. As to Vishnuism, the number of male devotees seems to fall away with the spread of education and civilisation. At least thirty women to one man may be seen toiling along the Jagannath Road to Pooree in the month of the *Ruth Jattr*. Women in all countries require more religious support and excitement than men, and to this it may be added that a religious pilgrimage to Kasi, Peria, Brindaban, or Purus-tom forms an agreeable change in the monotony of a Hindu widow's life. Railways and better communications may give a temporary impetus to pilgrimages, but at the same time the social and worldly aspects of the festival are probably developed at the expense of the religious. For instance, it is said that the steamers of Messrs Hoare, Miller & Co. have recently attracted more pilgrims to Saugor Island (*Gangá Ságor*); but they chiefly consist of those "on pleasure or on business bent." We have on several occasions entered into conversation with the chaprassies or touts sent out by the priests of Benares, the Gywals of Gya, or the Pundas and Pariaris of Pooree. These men have told us that it requires more trouble and persuasion to get pilgrims (*jattris*) than heretofore, and that the latter do not so readily disgorge their rupees as they used to. These touts may be seen wandering about the villages in almost every District of Bengal. There is little or no "poaching" in the case of well-established clients, Purohits handing on their *ujmans* to their sons or successors: but there is competition for new clients. There are certainly some unmistakable signs that religious enthusiasm (where not fanned, as in up-country towns, by rivalry with Islam) is on the wane. Some years ago the Car of Jagannath at Pooree used to be pulled to the Garden House of the god by pilgrims with the utmost enthusiasm; and also back again on the day of the *Ulla Ruth*, nine days afterwards. But year by year this enthusiasm waned, and the rank and file of the Bengal Police had to be requisitioned to bring up



laggards to the ropes and make them pull. Some years ago it forcibly struck the Government, that the constabulary of a Christian Government were performing a somewhat extraordinary and anomalous duty in compelling pilgrims to perform their religious duties; and orders went forth that the police must in future confine themselves to their legitimate duties, the protection of life and property. From that date a sufficient number of pilgrims willing to pull the cars has not been found, and they have had to be pulled by labourers hired for the purpose! Sir Alfred Lyall's definition of Hinduism is as good as any that has ever been given, and the very definition gives point and strength to our assertion, that Hinduism proper must give way to something else. "Hinduism" he says in *Asiatic Studies*, is "a tangled jungle of disorderly superstitions, ghosts, and demons, demi-gods, and deified saints, household gods, tribal gods, local gods, universal gods, with their countless shrines and temples, and the din of their discordant rites—deities, who abhor a fly's death, and those who delight still in human victims."

Our author has an interesting chapter on agriculture and land revenue settlements. The late Sir Henry Maine remarked that the reports of the settlement officers "constitute a whole literature of very great extent and variety, and of the utmost value and instructiveness." "I have now before me," says Sir John Strachey, "one of these settlement Reports, a folio volume of more than four hundred pages. I doubt whether there is any English county of which you could find so minute a description. Physical geography, climate, history, castes, religions, communications, population, commerce, condition of the people, education, agricultural statistics, systems of cultivation, tenures of land, history of past and present settlements, rates of rent and revenue—there is hardly a subject of interest in regard to which the results of long and patient investigation have not been recorded. This is the class of authorities to which we must go if we desire to learn the truth about the condition of the people." And yet these valuable sources of information are pigeon-holed in Secretariat and Collectorate libraries, and never made accessible to the public.

In his account of the civil administration, the writer points out that there is no country in Europe in which judicial and executive officers receive salaries equal to those given in the Native Civil Service of India. The first President of the Court of Cassation in Paris gets only £1,200: a Native High Court Judge in Bengal receives £5,000. In the French Courts of appeal, the salaries of the First Presidents range from £600 to £1,000, and of the other Presidents from £300 to £550; the salaries of Native Subordinate Judges range from

£720 to £1,200. The Judges of the Tribunaux de Première Instance get from £144 to £800; Munsifs (the lowest grade of Judges in Bengal) get from £300 to £480.

The importance of upholding the authority of District officers is forcibly dwelt on. "Where," says the writer, "an absolute Government is administered by a small body of foreigners far more advanced in civilisation than the people of the country itself, the most essential condition of safety to the rulers, and of good Government to the people, is that authority should be strong, and authority cannot be strong unless it is concentrated. In every district of British India the Government has its representative in whom all executive authority centres. It is a deplorable matter that in Bengal, the "microscopic minority" in Bengal are evincing a hostile attitude towards the administration, and are doing their best to weaken the authority and prestige of the District officer."

The Government, if it fails to uphold the authority of its District officers, must at the same time strike at the roots of its own authority. The recent tendency to over-centralization is undermining the foundation on which British rule has been built up. Over-centralisation is produced by lazy, weak, and inefficient officers; but the true remedy is to get rid of such officers, and to replace them by men of ability and industry. In this connection the writer remarks:—

"If the District officer is weak and incapable, authority and law in the district are weak also; if he is strong and competent, they are respected. Every cause which tends to diminish his influence lessens the authority of the Government, whether that cause be shortcomings of his own, or the injudicious action of his superiors. At the same time, it must not be supposed that he has any irresponsible and arbitrary power; all the more important duties are strictly regulated either by law or by rules laid down by the Government, and all his proceedings are subject to supervision, and, when necessary, to correction."

As regards jail administration, the writer remarks: "Every district has its jail, and there are central prisons in convenient situations. There are few countries in Europe where the jails are so well looked after. A great Indian prison is a model of cleanliness and good management." Jail administration in India, carefully supervised by Local Governments, who are again watched by the eagle eye of the Supreme Government, is year by year attaining a greater state of perfection; and it is a fact that a majority of the prisoners, especially those belonging to the thieving castes, enjoy more comfort and more and better food than they do out of jail. Prisoners are given well-cooked food and the best water procurable, carefully filtered. They are periodically weighed, and are immediately given lighter work or relieved of work altogether, if they are

losing weight. They are daily examined by an experienced medical officer, and sent to the jail hospital if unwell. And the tendency is to err on the safe side of sending them too soon rather than too late; for every Superintendent is keenly and personally interested in keeping the death-rate down to the lowest possible limit. It has recently been questioned whether jail life is sufficiently deterrent for the lower castes; for the upper classes there can be no doubt that it is so, and a gentleman accused, who has committed an offence, will spend a great part of his income to get off, or at least to escape a sentence of imprisonment. In England prisoners are given educational instruction; but in India it has been thought that to do so will only make the criminal classes more clever and accomplished criminals. But though secular instruction does not reform, moral and religious instruction may do so, and it might be advisable to introduce instruction of the latter sort into Indian jails. The difficulty of doing so consists in the absence of a Missionary or proselytising element in Indian religions. In England clergymen are only too glad to avail themselves of permission to visit prisoners. It may be doubted whether any Mahomedan Maulvie would care to visit a jail periodically for the purpose of reading a *khutba* (sermon) to the Moslem prisoners. What has been said above as to the Hindu religion will show the difficulty of providing any suitable instruction for Hindu prisoners.

Our author has an instructive chapter on Native States, and though his condemnation is not so sweeping as that of Sir Lepel Griffin, still it throws a flood of light on the real character of the administration in those States. It is shown that our conquests did not absorb nationalities, displace long-seated dynasties, or level ancient nobilities. The rulers and their principal officials are often as much foreigners to the population as the British, while their religion is in many instances different. In the territories of the Nizam of Hyderabad, nearly the whole population is Hindu, but Hindus have no share in the administration; everything is in the hands of Mahomedan foreigners. In the other so-called Mahomedan States, the Hindus form 85 per cent. of the population. The Maharatta dynasties have nothing in common with the people they govern. Their race is different, and their language is not understood. The population of the three Maharatta States (Gwalior, Indore, and Baroda) is about 6,250,000; but, except the rulers and their followers, there are no Maharattas. It is not surprising that there should be mal-administration, over-taxation and gross oppression of the people, seeing that (as Sir John Strachey points out), the only sanction for good administration, namely, the fear of summary annexation, has

passed away. The author speaks of the "insufferable badness" of the administration in Cashmere, and the disgraceful misrule and oppression in that State had arrived at such a pitch, that the Government were recently compelled to take some action, which to many right-thinking persons was too tardy and inadequate. And yet there are to be found persons in England, who pretend to think that the Government of India has oppressed an innocent ruler, adored by his people. These persons are apparently so lost to all sense of sympathy with the masses that they would again ruthlessly consign them to the misery from which the Government of India has made an attempt to rescue them.

The author evinces a righteous indignation when he describes the atrocities in Oudh prior to the annexation. "I find," he says, "only one defect in Lord Dalhousie's most wise and righteous action; he was too merciful to the miserable king and to the demons who had been destroying one of the most populous and fertile countries of India." Similar accounts are given of Baroda, Gwalior, Indore, Bhopal, and Cashmere. As regards Gwalior and Indore, an instructive extract is given from a report of Sir Lepel Griffin, submitted in 1885. In this it is stated that the collection of revenue is made over to rack-renting agents; that the principal officials and nobles sometimes abet dacoity and robbery and share the proceeds; that action is taken against individuals unjustly and in defiance of the commonest principles of justice and equity. "The ruler considers the soil of the State as his own; the people are his slaves; the entire revenue is his private pocket-money, to hoard, lavish or waste, without any right of remonstrance or complaint on the part of his subjects. The disease of such Governments is chronic and intolerable. It is impossible that they can be other than evil, and it is a false and foolish policy to use towards them the language of false compliment, and to pretend that they are other than irretrievably bad, until a higher civilisation and the example of the British Government shall have demonstrated that the rights of princes have no existence apart from the rights of the people."

There are persons who, ignoring the facts, have the hardihood to assert that the Native States are better ruled, and that the people are happier then than in British districts; and yet these same persons decry personal rule in British districts and advocate the separation of executive and judicial functions. It would be an insult to the intelligence and knowledge of such persons to suppose that they really believe what they assert. If they do believe it, they are almost as suitable inmates for a lunatic asylum as a man who believes that the moon is made of green cheese. If they do not

believe what they say, but merely make the assertion from political motives and enmity to British rule, they are dishonest and disloyal.

The concluding lecture in the book deals with the Province of Bengal Proper, and in this chapter the author has indulged in some sweeping condemnation of the Bengalees. The reason he singles out the Province of Bengal is to correct the erroneous impression which Englishmen frequently entertain, that "Bengal and Bengalies are types of India and its people, the truth being that there is no Province which is in all respects so exceptional, and no people so curiously distinct."

The author has laboured under the disadvantage of not having served in Bengal, and this fact has led him into a few mistakes, or at any rate, over-statements. Of the general characteristics of the people and the country, he says:—

"Almost the whole population is rural. There are scarcely any manufactures, except of common cloth and other articles which can be made by the ordinary village artisans. Bengal has never, within historical times, been distinguished, as other Indian countries have been, for excellence in art. The native portion of Calcutta, although full of wealth, can hardly be surpassed in mean ugliness; people who are comparatively rich are often content to live in hovels; and among the zamindars and rajas of Bengal, with income which even in England would be thought immense, there is hardly one who lives in a house which, in its architecture and decoration, is not detestable. In this respect the modern native city of Bombay is a striking contrast to that of Calcutta."

This condemnation cannot be called unjust, but there are unmistakable signs that the standard of comfort is rising, though very slowly. The Bengalees have not had in the past much opportunity for developing any latent taste for manufacture. Former rulers have preferred to dwell in the Panjab and North-West Provinces, where the air is dry and food more easily digested, and hence that part of the country has been highly developed from the point of view of material advancement. Many sadder stations in Bengal are not towns at all in the proper sense of the word; they are merely groups of rural villages. In some even decent eatables are hardly procurable, much less articles of delicacy, comfort, or luxury. There has not been that foreign demand in Bengal which has proved so great an incentive in other parts of India. Moreover, it seems to us that the Bengali requires an exceptional amount of spur and stimulus, owing to the deadly unhealthiness of the climate, which induces apathy and lassitude. Heat, moisture, damp, vapours, jungle, snakes, flies, insects, mosquitoes—one is compelled to believe that the race must have committed some awful sins in a previous existence to be continually punished with such scourges. The malaria in parts of Bengal is terrible, no one escaping it. If a

European does not get the fever itself, he is affected in other ways by dysentery, rheumatism, and what not, all the result of malarial poisoning. Can a race, living in so pestilential a climate, make any rapid progress towards moral or material greatness? History affords us no such example. Even with imperfect registration, the recorded death-rate from fever only often reaches 25 per thousand per annum, and the true rate is doubtless 35 or 40, the total mortality being over 50. Battles hardly show such a list of slain. The climate of Bengal must be radically improved by sanitary engineering, or at least by ordinary sanitation on a large scale, before its people can acquire that *mens sana in corpore sano*, that physical and mental vigour, which is as much a *sine quâ non* for the advancement of a nation as it is for that of an individual. That educated Bengalees appreciate a good climate is evident from the fact that many now go and live in Calcutta to get the benefit of the improved sanitation. Those who live in other parts of India, may smile at this statement : but it is the sober truth. Bad as Calcutta may be, it is healthy in comparison with most of the sadder stations in Bengal, as any Bengali gentleman will admit.

Our readers may be assured that in the above remarks is to be found at least a partial solution of the extremely slow progress of the people of Bengal towards material advancement. We have daily seen the effects of this terrible malaria; the specimens that come to the dispensaries for treatment cannot be said to live, in the sense that people live in a European climate. They drag out a wretched existence. Children of five years of age may be seen with enormous spleens, sad, dejected, and aged before their time. The blood in old cases becomes so poisoned that sores break out all over the body. The upper classes who feed better, and get medical advice, are not so terribly punished; but even they are attacked to such an extent as often to make their daily work a burden to them. In Bengal the cart has been put before the horse. Sanitation should have preceded education, and had this been so, the education would have had a hundred-fold more fruitful results.

But, considering the inherent obstacles indicated above, Bengal is perhaps making as fair progress in manufactures as can be expected. Some excellent pottery is made in Khulna; the model figures of Kishnagur show considerable skill; glass lamps and tumblers are being manufactured in Backergunj; the gold and silver filagree work of Cuttack, (rather an art than an industry), rivals the Maltese work; the best specimens of Balasore brass work might be mistaken for Benares work; some fair knives and scissors are manufactured at Kanchannugger near Burdwan; the manufacture of country cloth is in several places recovering from the depressed state into which it had fallen, the

recovery being attributed to the flimsy nature of the European piece-goods ; and good paper is made at the Bally Paper Mills. The chief manufactures, however, owe their development to European enterprise—tea, coffee, silk, indigo, cinchona, jute, &c. The manufacture of molasses has received an impetus from the sugar-cane mills of Messrs. Thomson and Mylne, and Renwick & Co. ; while slate, copper, coal and iron are being worked by Europeans .

Our author damns with very faint praise the results of English education on the morality of the people. "For a Bengali," he remarks, "it is something to talk in grandiloquent English about patriotism, and manliness and courage.. Even the academic admiration of such things is perhaps a mark of progress." Again : "We may think of troopers from the Panjab riding with Englishmen in a Balacava charge, of Sikhs and Gurkhas fighting as French and Germans fought at Gravelotte, but is it possible by the wildest stretch of the imagination to suppose such things of Bengalis? But for the presence of our power, Bengal would inevitably and immediately become the prey of the hardier races of other Indian countries." But the Bengalees themselves can hardly be blamed for this : it is their enfeebling and enervating climate, which is the root of all the evil. Macaulay, in his essay on Lord Clive, writes : "The Castilians have a proverb that in Valencia the earth is water and the men women ; and this description is at least equally applicable to the vast plain of the Lower Ganges." It is the pestilential climate which prevents education producing the same ideas and feelings which it produces in good climates. The head, made dull by a heavy muggy atmosphere, cannot clearly perceive the vast difference between insolence and a gentlemanly independent bearing ; while the mind, injured by repeated attacks of fever, develops all sorts of mistaken notions, as, for instance, that it is not a very reprehensible act to bring a false charge. But we do not blame the race ; rather the rulers should be blamed for not enforcing sanitation, and so improving the climate. The necessity for doing it will be universally admitted directly it is done. Fifty years ago compulsory education would have been thought intolerable oppression. Now Bengalees would welcome such a measure—at least for all but the lower classes. But they shrink from sanitation, although it is even more necessary than education for their healthy mental development. The greatest benefactor of the Bengalees will undoubtedly be the man who, undeterred by clamour, will not shrink from enacting such sanitary legislation, as will remove or minimize the causes of malaria, and so save the people from the plague which now saps their energies, poisons their very vitals, and makes life naught but a "living death."

The author deplors the loss of £5,000,000 a year which has been thrown away by making permanent the settlement of the land revenue. With exceptions so rare as to deserve no consideration, the zemindars take no part in the improvement of the lands and, until a very few years ago, they bore virtually no share of the public burdens. The rental left to the zemindars under the Permanent Settlement, after payment of the land revenue, is supposed not to have exceeded £400,000. The gross annual rental is now about £20,000,000, while the land revenue is only £3,800,000. No portion of this increase has been due to the action of the zemindars." When other Indian countries understand that, in consequence of an unwise arrangement entered into in Bengal a century ago, they are compelled to pay every year several millions of taxation which would otherwise have been unnecessary, their demands for justice will be too strong to be disregarded. They do not yet know the truth. In the words of Mr. H. S. Cunningham, "the richest province of India has been, to a large extent, defended, administered, educated, supplied with roads, barracks, hospitals, railways and canals, and relieved in famine,\* at the expense of the rest of the community. Ryots have been toiling in Madras and toiling in the Deccan, in order that gentlemen like the Rajas of Durbhanga and Burdwan may enjoy incomes of several hundred thousand pounds a year, free from the rude contact of the tax collector's hand." It is probable, however, that the incomes of the zemindars may decrease as the ryots become fully aware of the provisions of the Bengal Tenancy Act, unless the decrease be counterbalanced by a general rise in prices. "English education," says Sir John Strachey, "has unfortunately hardly begun to penetrate to the cultivating classes in Bengal, and until lately they have found few champions among their own countrymen. The sympathies and the support of that section of the English-speaking Bengalees which has been able or desirous to make its voice heard, have been for the most part enlisted on the side of the zemindars, and to the detriment of the ryots. The time will come when this will cease to be true—already, I hope, things are better than they were—but hitherto the ryots have had mainly to look to their English rulers for the defence of their interests." In another place the author says: "an unfortunate result of our system of higher education has been the want of sympathy which many of the English-speaking natives, especially in Bengal, show towards the poorer and less instructed classes of their countrymen. The shallow and imperfect education, which is all that they usually obtain, is derived

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\* In 1874 nearly £7,000,000 was expended by the Government from the general revenues of India on the relief of famine in Bengal.



entirely from English sources. They learn enough of English habits of thought to enable them to imitate us, sometimes in things that are good, but sometimes in things that it would have been better to avoid. They learn almost nothing about their own country, and seem frequently to care little for their own people. I need hardly say that there are very many honourable exceptions to be made to general statements of this kind." In regard to great social questions the Government has never received advice or assistance from the "much-talking section" of the Bengalees. "You might search the proceedings of their societies, you might examine the files of their newspapers and the reports of their speeches at their public meetings, and you would not find one word of reprobation of the atrocious practices, which, under the cover of immemorial custom, are followed throughout India, or one word of a desire to help our Government to suppress them."

The vials of Sir John Strachey's wrath and righteous indignation are poured forth in no uncertain manner on the devoted head of the "reptile press." "Their newspapers, published in English, are sometimes, so far as their style is concerned, extremely well written, but with honourable exceptions, they are disloyal, foolish, and sometimes shamefully scurrilous." Speaking of the Indian National Congress, he says: "If you look at their voluminous speeches and proceedings, you will not discern the smallest recognition of the terrible problems of which I have given some illustrations, but you will find no lack of sedition and hatred of the British Government thinly veiled under frequent and fulsome expressions of devotion and loyalty. I am far from believing that the majority of these men are really disloyal. They are, for the most part, well meaning men of small education, but with a good knowledge of our language, who have learnt to pour forth the commonplaces of English politics, and who listen with delight to their own eloquence which they half believe to be inspired by feelings akin to those which they have read about in Burke and Macaulay. They easily obtain a hearing from sentimental philanthropists, and from those Englishmen who see nothing good in any political institutions except those of their own peculiar type, and assume that certain abstract principles are always applicable to the Government of all sorts and conditions of men." . . . "There will always be people ready to accept with composure any political folly, provided that it involves some triumph of sentiment over sense, and some appearance of national humiliation."

In an appendix we are given some account of the now notorious 'conversation' and 'catechism.' Even those who are not unfavourable to the Congress movement, do not venture to defend these publications, but admit that they come within the

pale of the criminal law. Sir John Strachey's opinion of them is as follows :—"One of the leaders of the Congress movement—an Englishman—has described these foolish productions as 'loyal and kindly alike in spirit and word' None can know better than their authors that the accusations and insinuations in which they abound are absolutely false ; that the Government of India does not impoverish the country, or spread intemperance among the people, or refuse to consult native opinion in matters connected with the administration ; and that English Magistrates do not strike and ill-use defenceless cultivators. It is impossible to attribute the circulation of such falsehoods to any other motive than a desire to excite hatred of the British Government and its representatives in the minds of the ignorant masses of India, while concealing from people in England the true character of the movement by exaggerated professions of loyalty."

It is certainly a matter for deep regret that the Native Press should not exercise more discrimination in its attacks on European officials ; for if it is proved in one case that an officer has been attacked without cause, all subsequent attacks are naturally regarded with suspicion ; and, if the *mala fides* or malice of the attack be demonstrated in say half a dozen instances, the effect is to create such an attitude of distrust and disbelief on the part of Government and its leading officers, that they are slow to give credence, even where the criticism may perhaps have been deserved or partially deserved. The Native Press would therefore do well in its own interest to test the information it receives before giving it publicity. Of course this advice is only offered to those who desire to do their duty as honest and impartial pressmen ; there are some, unhappily, who are not actuated by such a desire.

A word in conclusion. We believe there are some true native patriots, who would not stoop to demean themselves by ignoble practices, men who really desire the good of their country and the happiness of the people, men who are not possessed by an insensate hatred of everything official or European, men who will work in unison with others (be they European or Indian, official or non-official) who in common with them sincerely desire the advancement of the country and the people in moral and material progress. These men have the power to stem the tide of disloyalty and unreasoning hostility to the rulers of the land ; they can turn into fruitful channels the aspirations of the educated classes ; and we appeal to them to do so. Let the more honourable representatives of the Native Press, by setting an irreproachable example, help to raise the lower grades to their own level. Let it be recognized that the noblest man in the world, be he Christian, Hindu, or Moslem, cannot always

attain perfection. We are none of us infallible, and we can but try to do our duty without fear or favor. Officials, like other persons, must make mistakes, they must sometimes commit errors of judgment ; if they did not, they would not be human. If the Native Press were to attack only the lazy official, the corrupt official, the inefficient official, or the duty-shirking official who truckles for popularity, the administration would be benefited and strengthened. If the Native Press were more uniformly honest, it would have greater power and influence, and would leave more permanent impressions. A single cautious, well-considered, and temperate criticism from an honest editor, who tests his information and verifies his facts, will have more effect, more power for good, more weight with the Government, than a thousand indiscriminate attacks recklessly and often maliciously made on the authority and at the instigation of interested persons. The Press is, or ought to be, as honourable an avocation as any other learned profession. Its honour should be as clear and transparent as the pellucid water of the mountain stream. If it lends itself to the gratification of private spite and malice, and lays itself out to disparage and harass those who will not stoop to purchase its good opinion or at least its neutrality, it then deserves no higher appellation than a sewer journalism, battenning and fattening on the garbage of the gutter.

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## ART. VI.—SOME RELICS OF BEJAPUR.

### THE MALIK-I-MAIDAN, OR LORD OF THE PLAIN.

THE subject which bears this high-sounding name is a large gun, cast about five centuries ago, and is considered to be one of the largest specimens of cannon known in ancient times. It is found lying amid the ruined ramparts of the ancient city of Bejapur in the Southern Maharatta country of Western India. It is perhaps one of the most remarkable specimens of ancient cannon to be found, not only in that ruined city, but in our Eastern Empire. It is a 42-ton gun, cast—not welded—as was usual in those days. When struck it sounds like a bell. Outside its color is dark green, while the atmospheric influences of five centuries have not been able to wear away the polished glass-like surface, in which the visitor views his face as in a mirror. As a weapon of offence its unwieldiness makes it almost useless, but as a specimen of founding it remains unrivalled. The muzzle is wrought into the eyes and nose and open mouth of a monster devouring an elephant, whose hinder parts are disappearing down the throat. The original inscription states it was cast at Ahmednagar, 1549, by Mahomed Kimri, a Turkish Officer. "There is no God but Allah,—and none can bind him," Abulghazi, Nizam, Shah, servant of the race of the Apostle—and of the house of God, 956, A. H.

In the vent is the name of the maker: "Made by Muhammed-bin-Hassan Karim." In 1686 Arungzeb added an inscription—"Shah Alamgia Ghazi. The Asylum of Religion, who granted the claims of the just, took possession of our kingly country and conquered Bejapur. From the date of the conquest good fortune came. He subdued the Master of the field in the year of our exalted reign, 1077 of Hijri." From other historical manuscripts we learn it was brought with infinite labor by 10 elephants, 1,400 oxen and an incredible number of men to Bejapur in 1634. It was mounted on a revolving pivot on a grooved platform, but it has now been dismounted, and rests on a heap of stones. Its value as a piece of ordnance is questionable; for though the ball must have been very large, owing to the expanded shape of the bore, the range cannot be great. It is stated that, during the siege, a ball from it struck a column of a

tomb, and broke it at a distance of 1,000 yards, but probably it was capable of greater execution. Several pieces of granite shot lie near the gun. In 1829 the gun was loaded with 80lbs. of powder and fired. It will, however, take an iron shot weighing 2,774lbs. or a stone of 1,100 lbs. If these were explosive shells, the damage might be considerable in a populous neighbourhood.

In the seventeenth century the story was current that, when the gun was cast, Ramu Khan slew his own son, and baptized the gun with the blood of his child; the object of this bloody deed was to drive out the evil spirit from the gun. A similar cruel act was done in olden days at the launch of a ship, and our own custom of breaking a bottle of wine over a ship's bows in launching a ship, may have its origin in the same idea. For many years the Hindus of the locality have turned the gun into an object of veneration and worship, and offerings of oil and flowers are often made to it. It has been several times proposed to carry this massive piece of artillery to England, but the difficulty of carrying it to the coast was considered too great. In 1852 a proposal was made to grant £3,000 to carry the gun to the coast, but luckily it was negatived, and is not likely to be carried out in these days of an exhausted exchequer. The Malik still remains one of the most interesting objects of Bejapur.

On some of the other bastions of the city are found other guns of less calibre, but probably of larger range. These weapons of offence and defence now lie silent and dumb amid the vast ruins around them. They have spoken many a time with effect during the many sieges and scenes of bloodshed of which this town was the scene three or four centuries back when Bejapur was in its glory. But they are silent now, and the native children play around these harmless monsters, which were once the terror and defence of the greatest city in Western India.

The *Ibrahim Rosa*, or garden, is situated about half a mile south east of Bejapur. In an enclosed garden are situated the most gorgeous and, even to this day, perfect of royal buildings. They are the mausoleum of Ibrahim Adil Shah II and his family, the mosque attached to it, and the terrace in which both are built. Ibrahim reigned 47 years peacefully, which left him liberty to pursue what was the hereditary taste of his family in architecture, and to have a building erected which has no rival in the Deccan or even in India.

The Rosa was begun as a tomb for his favourite daughter, *Zoalal Sooltana*, who died at 15 years of age, and for his wife, Taj Sooltana, and for Ibrahim himself. All lie buried in the dark recesses of the tomb. The date of the building,

is about 1626, and it took '86 years' to complete. By an inscription on the doorway to the following effect, we learn :—"Malik Sandal after great exertion, and the expenditure of one lac and a half, or 900 houris, caused this tomb to be completed to the memory of Taj Sooltana, at whose purity Paradise was astonished." The value of the money spent in this tomb is calculated at £528,150 sterling, but the sum is of greater value if the money of the period be considered. Probably over £1,000,000 would be nearer the mark. Another inscription tells us that 6,533 workmen were employed 36 years eleven months and eleven days in completing the work. There is no traditional tragedy connected with this great building; it may be that the reign of peace and the comparative purity of the lives of those buried there, gave no cause for such scenes as are more or less connected with every notable building in Bejapur.

The Roza still stands perfect as on the day it was built, surrounded indeed by a great howling wilderness of sand, but itself a garden of roses. Silent and lonely, seldom visited, save by the passing stranger, this mighty work of architecture, perhaps the greatest, if not the finest ever raised by Moghul hands, seems indeed to be one of the wonders of the past, and an amazement even in its decay. How much was thought of it by its builders, is gathered from an inscription, which with boastful pride tells us :—

"Heaven stood astonished at the height of the building. When its head arose from the earth, another heaven seemed to be raised. The Garden of Paradise has borrowed its beauty from this garden, and every column in this building is graceful as the cypress tree in the garden of purity. An angel from heaven told the date of the building in words. The heart-gladdening building is the memorial of the Taj Sooltana." The value of this number is H 1,036, *i.e.*, A.D. 1226.

This mighty fane was raised to the memory of a young daughter by a loving father. With the exception of the Taj at Agra, by another Moghul leader, which equals this in richness but not in size, raised as it is to the memory of a wife, the world does not contain so noble a monument to endearing love as the Roza built by Ibrahim Adil Shah, II, to the memory of his daughter, Zoalal Sooltana.

#### *Afzulpur, the city of Afzul Khan.*

A few miles outside the ruins of the great city of Bejapur lies the ruined city of Afzulpur, named after the great Mogul chieftain Afzul Khan, 1659. A curious story belongs to this locality, the only truth for which we find in the family burying place. On a platform, along one side of which was once a large

pond, now however silted up and embowered in mango trees, are a row of tombs, all alike, with the exception of one which is a little raised. There are altogether eleven rows of tombs of seven in each row. The story runs that Afzul Khan volunteered to lead the fatal expedition against Shivaji, the Maharatta leader. The astrologers warned him that he would never return. On the strength of this warning he set his house in order, by drowning his 177 wives in the palace pond, burying their bodies in the pond bank, and adorning their graves with rows of neat tombs. The story may be false ; there is no means of tracing or testing the truth. But if we are to believe the traditions of those bloody times, it was quite in accordance with custom. It is also a remarkable witness to the truth of tradition, to find so many tombs of precisely the same age in what were originally the private grounds of the palace of Afzul Khan.

#### *The Mehtar Mahal.*

This Khan is probably one of the most elaborate and beautiful pieces of art work to be found in Bejapur. It owes its creation to the following story which is taken from local tradition. According to the legend, Ibrahim Adil Shah I. was afflicted with virulent leprosy, and received no relief from his physicians, many of whom, on the failure of their remedies, he had cruelly put to death. He resorted to the consolation of his astrologers, and was told by one of them, that if he was to give a large sum of money to the first person he beheld, as he awoke on a certain morning, it would be expended in charity and ensure his recovery. The person who proposed to receive the royal bounty was the astrologer himself. But the King happening to awake too soon, saw only one of the sweepers attached to the palace, and calling him, wrote him an order on the royal treasury, desiring the man to take it himself. The sweeper controlling his terror took it for an order for his own execution,—for such events were common in those days,—hesitated awhile to deliver it. But fatalism, however, suggested that if his end was come, it was useless to try and avoid his destiny, and so delivered the order. His amazement was great at the unexpected nature of the royal gift. There was no resource but to take it, and he determined to fulfil the astrologer's prediction, and found a mosque which should eclipse all others in Bejapur. Perhaps for neatness in art and architecture this Khan beats all the other buildings in this city of palaces and tombs. It also seems to have suffered less by the hand of spoliators than many of the other places. Being constructed all of stone, and most of it carved and deeply set, it has been spared in its original beauty.

*The Jumma Mosque.*

This noble building is the largest and noblest building in Bejapur and the Deccan. It was founded by Adil Shah I. 1580, as a mosque. The only portion at all ornamented is the centre recess and the stone pillar. It is still perfect and bears the following inscription on a large stone :—"Place no reliance on this life, because it is not steadfast, and in this house of inquietude nothing is at rest for any one. Pleasant is the stage of the world, now sparkling in my eye, and happy is the lot of my life, but it is fleeting." No truer commentary upon these verses could be given than is afforded by the building itself, surrounded as it is by a number of small huts which cluster around it, built of mud, stone and clay, which furnish the contrast everywhere at Bejapur between the greatness of the past and the poverty of its present condition. The old velvet carpets and curtains are still retained, but the golden chains which hung from the dome were taken away by Arungzeb, when the city was captured in 1686, and probably formed part of the prize-money of the army.

The Jumina Mosque was one of the great public buildings of Bejapur, and some of the descendants of the ancient servants who served the Moguls, still remain to sweep and clean the building. The Muhamedan population is, however, extremely limited, and where the prayers of assembled thousands were wont once to be offered, it is questionable if at any time now one hundred Musulmen can gather together at the great festival of their creed.

*The Story of Bhumba.*

The story of Bhumba, the mistress of Sultan Muhamad, who lies buried in the great Gol Gomuz, and whose body lies next to her lord and master, is perhaps one of the most interesting legends of Bejapur :—

The merry Monarch (like our Henry VIII) was said to be a great admirer of female beauty. Hearing of the famous beauty of Bhumba, a dancing girl at a neighbouring court, he commissioned his principal Minister, Mulik Sondal, to bring the beauty at any cost to his court. Malik Sondal, a wise man, aware that in his absence he ran the risk of being accused of betraying the king, left behind him the proofs of his innocence in written records. On his return with Bhumba, as he had foreseen, he was accused and ordered for immediate execution. He laid his proofs of innocence before the king, who was so struck with the injustice, that he commanded Malik to ask anything he wished and it would be granted him. Malik replied that as he could no longer hope for children, he would like to leave a building which would keep his name from being forgotten. The king agreed to



supply the funds and the Taj was built. It stands close to the Mecca gate, 223 feet square, 52 feet deep, and fronts the roadway with an arch 35 feet span, flanked by two octagonal towers, surmounted with domes, and two wings facing east and west forming a spacious rest-house. A gallery runs round the wall with large rooms still used by travellers. The aqueducts and fountains in every part of Bejapur, most of them now broken down, are amongst the most wonderful pieces of engineering work to be found anywhere.

### *The Gol Gomuz.*

Muhammed Adil Shah was the son and successor of Ibrahim Adil Shah II., 1660. His tomb, a mausoleum in the fort which towers above all the buildings in the fort and suburbs, and fills the eye from every point of view, is seen by the traveller in nearly every direction as Bejapur is approached. This mausoleum denotes the highest point of architecture, for without an extraordinary knowledge and familiarity with not only the theorems but its practice, it is impossible that this great building could have been planned, much less constructed. The building is founded on a rock, and is a vast gloomy crypt, in the chamber of which sleep, beneath plain earthen mounds, the Sooltan Muhammed, his wife and son, daughter and mother, and also his favourite mistress, Bhumba, a dancing girl, who, it is said, refused to the last the royal honour of marriage with the monarch. There is nothing but the bare dusty earth in this crypt, and a few withered garlands lying on the graves, to tell their own tale.

The following is a comparison of the Gol Gomuz, which means, "the round dome," with other buildings of a similar kind :—

			Diameter.	Height.
Gol Gomuz ...	...	...	135 feet	175 feet
S. Peter's ...	...	...	137 "	333 "
S. Maria, Florence	...	...	137 "	275 "
S. Paul's	...	...	108 "	220 "
S. Sophia	...	...	107 "	182 "
Taj Mahal, Agra	...	...	58 "	80 "

Above the chief doorway hangs an iron chain, to which is attached a large stone, which is said to be a meteoric stone brought from Arabia. In 1879 the chain from which it hung was in a dangerous state, and it was taken down. On examination it was found to be a piece of green quartz, much worn by water and rounded. The people believe this stone guards the tomb from lightning. The dome was once struck, strange to say, on the occasion when, owing to some repairs going on, the stone was removed for examination; hence, the people argued, by a special bolt, in fulfilment

of a legend they had on the subject. The stone is said to scarce away ordinary lightning. The whispering gallery is 105 feet above the tomb, and every sound, down to a whisper, can be heard throughout the great building. For purposes of intoning and singing, even the separate notes of a piano resound away into the vast depths of the dome, and with a slight echo, come back clear and true, showing that, in addition to the wonderous architecture, the builders took into reckoning the acoustic properties of the building they erected. The Merry Monarch, as he is called, who lies buried in this lofty building, certainly possesses a resting place which has never been equalled in point of size and stateliness.

### *The fall of Bejapur.*

In a political sense, Bejapur ceased to exist after its captivity by the Emperor Arungazeb, 1686. It is never again noted in history. The city was occasionally used for durbars. But silently and mournfully the great capital of the Deccan passed to its decay, which was rapid and sure. The soldiers of the broken up States of Golkonda and Bejapur were left to shift for themselves, and plundered the country far and wide. The Deccan fell into disorder. Sumbhaje, son of Shivajee, devastated the west, was seized while drunk by a Mogul officer and taken to Arungazeb's camp. The Emperor in a humorous fit offered him life, if he would become a Mahomedan. Tell the Emperor, said the fierce Maharatta chief, "that if he will give me his daughter to wife to-night, he may make a Mussalman of me in the morning." The actual words cannot be directly recorded; but no insult could be more stinging in its meaning. Sumbhaje was forthwith blinded with a hot iron, his tongue was cut out, and he was beheaded, cursing and defying his tormentors to the last breath.

In 1795 Mozan-ool-Moolk became Viceroy of the Deccan. Bejapur passed out of the hands of the Peshwah's Government, and during the Maharatta occupation was reduced to ruin. The Maharattas took out all the famous screen work, windows and doors, for which the place was noted almost more than any other city in India. The wooden joists were burnt as fuel, and carried away to supply half the country. A spoliation went on from 1795 to 1818. Never was spoliation more complete. According to local belief it was a judgment of God. When the descendants of Sivaji were released by the English in 1818, and were permitted to establish an old claim in the independence of Sattara, still further spoliation went on. It is to be regretted that this was done, as it was the last straw of spoliation. With renewed vigour and deliberate impunity, palaces and private houses were unroofed for the sake of the noble teakwood beams which

spanned them. The whole of the window frames and their exquisite cornered lattice work balustrades were carted away to Sattara and to any other place where the owner could get orders. There are persons still alive in Bejapur who witnessed this wholesale devastation, with a grief which is now outspoken, and accompanied with many a curse, and tell of it in sorrowful tears. "Could that house stand which was built of stolen wood?" was an aged guide's dramatic question, as with angry gaze, though trembling gait, he showed the vast ruins of the city whose pride, like Babylon of old, lay humbled in the dust. It had not stood certainly, for the short lived kingdom of Sattara has passed away, and is itself a ruin. Both Bejapur and Sattara belong now to the Queen of England.

As the first act of the royal ægis which dominates now over all India, Bejapur has been rescued from the ruin which plundering Rajahs in their eager search for gold or their ruthless revenge have caused. The royal memories are once more enshrined. All the edifices of any note have been placed in complete repair. At a cost of £10,000 restoration was carried on. Most of the buildings have been put to some useful purpose, which will ensure their repair and retard decay. The resident engineer has his home in one of the lofty domed marques, which has been completely restored, and fitted up with every possible comfort without destroying a particle of the old work. The acting engineer has also superintended the restoration of all the other places, and much credit attaches to his skill and care. Amongst local surroundings for the benefit of the English residents, a lawn tennis ground now stands on what was once the hall of audience. Here, under a noble archway, where assembled thousands were wont to hear the despotic orders of Mogul chiefs, the peaceful games of athletic exercise are followed with zest by the few Englishmen who reside in the town. Another magnificent hall is devoted to badminton, and will easily accommodate half a dozen sets of players. The club is situated in another lofty palace in a building, which for size and loftiness is unequalled by any club in Europe or America.

The English residents, with the sanction of the Bishop of the Diocese, who refused to consecrate an ancient mosque for the purpose, have made one of the ancient gateways into a sanctuary for worship. After restoring its ancient colors and repairing the carvings, with the addition of coloured windows, it has become probably one of the most unique places of worship to be found in the world.

A gang of convict prisoners are always employed in repairing and restoring the ruins of the past, and in keeping the numerous places of interest in a condition fit to be

seen, and not left to the hands of plunderers. But the city that once had a population of 2,000,000 subjects, mostly men at arms, has passed away ; only 12,000 natives and 16 Europeans reside in the place now, and these mostly dwell in the palaces and tombs of kings. Bejapur can never again attain eminence as a city. Though recently it has a narrow gauge line of railway running past it, which seems to have raised the sleeping lethargy of its people and their surroundings, it seems, however, to be out of the general line of trade and commerce ; population is sparse and poor. It is, in fact, one of the famine districts of India, which has probably been the chief means of reducing both the land and the people. One cannot help but feel its vast loneliness and desertion,—a place to be shunned as all great ruins seem to be. A place which is the haunt of wild beasts, the bat and the owl ; and one cannot but be reminded of the Psalmist's word on a forsaken land :—"A fruitful land maketh He barren for the wickedness of them that dwell therein."

Near the Tower of the Two Sisters stand two deodar trees of gigantic girth and size. Tradition says this is the scene of the execution of some great leader who fell by treachery ; it is probably the execution ground of the once famous city. The green sward, moistened by the blood of thousands, is said never to wither even in the hottest seasons. As one looks around and sees the vast desolation of this giant city of the past, one feels the influence of its traditions as told by the wild natives whose forefathers were amongst those mighty men who ruled India by the sword, despotism and cruelty. No one says Meadows Taylor, (the man who has done most to revive these stories) has succeeded in awakening at Bejapur an interest such as surrounds the Alhambra. Far grander as its memorials are, the accounts of them are listened to with coldness if not with unbelief. Yet, stand by these beautiful ruins with the glory of an Indian sun lighting town and mosque, prison and mansion, town and rampart, some poet will surely gather the fleeting tradition, and breathe into them classic and undying life. Few are so dull as to pass unmoved through these massive and daintily adorned buildings which belong to an age that is gone. Nor will the stranger, on viewing the miles of ruins, great in their decay, withhold a title which time has conferred upon the city—"The Queen of the Deccan."

SEAMEN'S INSTITUTE,  
PRINCE'S DOCK,  
*BOMBAY.*

W. ELLISON.

## ART. VII.—ENGLAND'S COMMERCIAL SUPREMACY.\*

I ASSUME at the outset that it would be superfluous to prove by elaborate evidence that, whether we regard England merely as the United Kingdom or in her greater significance as the British Empire, she stands unrivalled as a Commercial power and occupies a foremost position in the transactions of the world. Her supremacy in this respect is never called in question.

It is, however, only since the middle of the 18th century that British Commercial advancement and ascendancy have become conspicuous. Iron, the precious metal of Great Britain, and now one of her main commodities of export, as well as one of her principal sources of wealth, was of but trifling importance and could scarcely be termed a national industry until 1750 when, through the diminution of forests, coal began to take the place of wood in smelting. In 1740 throughout Great Britain there existed only 59 furnaces whose combined production of iron was 17,350 tons, whilst in 1882 production had increased to 8,500,000 tons. Invention after invention enlarged the means of production, and new applications at once followed—and to the development of this industry alone Britain owes much of her Commercial Supremacy.

A hundred years ago British imports of Cotton were about 4 million pounds weight per annum; in 1887 these had increased to 1,745 million pounds—due in large measure to the introduction of machinery and steam power.

In 1800 Britain's consumption of Wool amounted to 97 million pounds weight; in 1880 it was 338 million pounds.

Fifty years ago Britain's outturn of coal approximated 30 million tons per annum, and it now approximates 200 million tons. In these and other important industries Britain has gauged a measure of progress wholly unexampled in the Commercial history of the world.

Amongst other now-existent evidences of pre-eminence, we find that British vessels constitute  $9\frac{1}{2}$  millions tons out of a total nominal tonnage of 22 millions, the United States coming next in order with  $4\frac{1}{4}$  million tons, or considerably less than half the British tonnage. When we regard the portion of the world's trade which is borne across the seas in British vessels,

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\* The above article is the substance of a Paper read to the St. Andrew's Young Men's Association, Calcutta.

our supremacy is still more marked, for whereas 153 million tons of merchandise per annum are carried by the vessels of all nations, no less than 89 million tons, or 58% are carried under the British flag. We find that in 1888, out of 3,441 vessels which passed through the Suez Canal, no fewer than 2,626 were British, representing a tonnage of 4 millions 600 thousand, or 76% of the canal traffic. As a consumer of iron and steel, which are so intimately associated with manufactures, and with almost every important advance in commerce, there is a margin of 25 millions sterling between Great Britain and any other nation. As a market for Cotton the United Kingdom absorbs 407 million pounds weight more than any other country. Of the world's Shipping,  $\frac{2}{3}$  are launched from the ship-building yards of the United Kingdom. If we turn to Mining, we find that England and her Colonies produce minerals to the value of 87 millions sterling per annum, or more than one-third the mineral production of the world. And if we take the volume of trade throughout the world, gauged by the Import and Export Returns of all countries, we find that out of an aggregate of 3,000 millions sterling, England alone contributes 690 millions, or 1,140 millions including India and the Colonies. Thus the British Empire controls nearly 40% of the world's trade.

Commercial Supremacy such as these figures betoken can scarcely have been attained save by special conditions of encouragement or by special influences of national superiority, securing for the British Empire some very distinct advantages as compared with the resources of other nations. Much of our commercial progress is undoubtedly allied with the wars of that stormy and unsettled period from 1790 to 1820. Great was the impulse given to British trade by the manifold requirements and distractions of those revolutionary campaigns, which were largely commercial in their aims and issues, for by them was the current of the world's trade diverted towards Britain. At enormous outlay, estimated at £1,250,000,000 sterling, many powers were kept at war with France, and the wants of armies in materials of food, clothing, and ammunition furnished employment for British industrial labour. It was these wars which threw the greater part of European export trade into Britain's hands. It was the distractions of these wars that strengthened England's position by depriving her of rivals on the sea, and thus between Britain and the Eastern and Western worlds there was developed an extensive interchange of commerce. In this connection I quote the following words as those of an able writer on the subject :—

"In 1806 Napoleon's famous Continental system was launched against England, and an ear of legislative repulsals ensued between the two countries, in which France suffered most.

"The French Emperor endeavoured to destroy British Commerce by sealing the ports of the entire Continent against English vessels, a measure which was intended to coerce England, but was fraught with ruin to the rest of Europe. His Berlin decree was issued when, in 1806, the French entered the Prussian capital. By it he interdicted all commercial intercourse with Great Britain, declared the British Islands to be in a state of blockade, and seized as prisoners of war all Englishmen found on any part of the Continent, over which he then possessed military jurisdiction.

"England met the Berlin decree by the no less celebrated Orders in Council published in 1807, and lasting until 1814. These reprisals prohibited intercourse with any port occupied by the French; and Napoleon retaliated by the still sterner decrees of Milan which reduced his Continental system to a code. The ports of Europe for several years presented the strange spectacle of not daring to admit English vessels for fear of Napoleon's decrees, and as little daring to let their own vessels leave their moorings for dread of the British Cruisers. The mercantile fleet of France was captured and her navy defeated. With an assertion of power which he could no longer enforce, Napoleon required neutrals to carry a French license to trade. England in reply seized the French Colonies, effectively blockaded France, and declared prizes all neutral vessels carrying French papers. While England ruled the sea, Napoleon's policy was futile and his ordinances were useless. Navigation ceased wherever he could enforce compliance with his will. France, which had been the purveyor of sugar and coffee for European consumption, was compelled to look to other States for her own supply, and at last the enactments of her ruler cut her off from every source; meanwhile the profits of a vast smuggling traffic which had arisen all over Europe, together with the growing trade between England and the United States, enabled English Commerce to endure this trial, in the end with positive gain. Except the English, there were soon no merchantmen in Europe, and England was called upon to act as universal agent and carrier. British fabrics and Colonial produce were so desirable that they were still purveyed, although surreptitiously and at greatly enhanced cost.

"Thus by an unintentional and strange concurrence of events the world's commerce came into the possession of England, after a short effort of the Americans and the neutral nations conjointly to share it. Such an effect was as unsatisfactory to the author of the Continental system as could well be imagined. In 1809 Havannah was made a free port another source of profit to British enterprise. Other new marts were also sought and secured during the war, which were not relinquished when the old ones were resumed."

More recent campaigns likewise produced an invigorating effect upon the progress of British trade, and have largely increased our commercial intercourse with other countries. Between 1861 and 1880 alone no less a sum than £1,329,000,000 sterling was spent in war.

But apart entirely from such exceptional impulses, there have been other powerful influences which have contributed to the attainment of Britain's Commercial Supremacy. Investigate the subject and you will find that British energy, intelligence, and thoroughness are without a parallel; that British inventive genius and skill, by the discovery and development of steam power and mechanical and scientific appliances, have revolutionized the great industries of the world, particularly those of England herself; you will find that by British enterprise there has been inaugurated, and there is now maintained, an ever-flowing tide of emigration, and that thus new settlements have

sprung into existence in distant parts of the world, and have grown into mighty Colonies, providing the mother country with new markets for her manufactures, and furnishing new sources of supply for her inhabitants; you will find that British aspiration and valour have led to the conquest of new countries and empires, and that under British rule these have advanced in commercial importance to such an extent as to contribute powerfully to the commercial progress and supremacy of the British nation.

Investigate the question as affected by the strength and stimulus imparted to our trade by our national Reserves, which stand in constant need of wise development, and impel us ever onward, and you will find that England has, at call, resources of untold wealth in all parts of the world by which her commercial importance has been and still can be enlarged. Consider our Indian dominions with their enormous agricultural, mineral, and industrial reserves, with their vast areas of cultivated territory yielding year by year rich crops largely in excess of the quantity for which there are means of transport to consuming centres; consider India's reserves of uncultivated but cultivable tracts of the most productive description; consider also her inexhaustible coal supplies of excellent quality—her mines of copper and of iron of the purest kind. Call to mind our Burmese possessions with all their undiscovered or undeveloped wealth of oil and iron and precious stones, with their forest reserves and vast agricultural areas. Consider our Australasian Colonies,—greater in extent than even India—with their embarrassing wealth of gold, and silver, and copper, with their expanding supplies of wool and grain. Turn to the Dominion of Canada with its immense deposits of coal and iron and its undeveloped agricultural wealth, and to our South African territories, with their rich pastoral products and their great subterranean resources of diamonds, gold, lead, iron, and coal, of which the extent is but beginning to be realized. These and others are but *Reserves* of the British Empire, and if their existence has acted as an impelling force to England's commercial development during the present century, they should be no less surely an encouraging influence to her commercial progress in the future. With such Reserves, almost boundless in extent as they are in wealth, England's commercial supremacy need never wane, and the British Empire will surely have itself alone to blame, should it fail to advance in commercial importance, or suffer its supremacy to be weakened or degraded by foreign policy, by foreign competition, or by any other cause.

But the aspect of the subject upon which I would more particularly dwell is, "*How our Commercial Supremacy is to be maintained.*"



The expansion of British commerce was secured under conditions largely differing from those which now prevail. The effect upon Britain's trade of long continued wars has already been alluded to. An enormous and altogether exceptional stimulus to commerce was but the natural result also of the introduction of the Steam Engine, the Electric Telegraph, the Spinning Jenny, the Power Loom, and the Steam Hammer—discoveries which have revolutionized the industries of the civilized world. By these discoveries and the rapid substitution of steam for manual labour, England acquired advantages over foreign nations which at once placed her commercial importance, and her ability to compete, far in advance of other countries.

The rapid development of our Railway system, the enormous increase of our steamship tonnage, our unrivalled means of production, all co-operated to establish for the English nation a commanding position in various parts of the world, and opened up markets hitherto unreachd. The countries of Europe and America, recognizing the great advantages which Britain derived from her means of inland and ocean transport, and from the monopoly she virtually enjoyed of the Cotton and Iron Industries, also directed their attention to the construction of Railways and to the establishment of Factories and Workshops. But at that time it was to England they had to go for their machinery, their rails, their engines, and skilled workmen, and thus the advance made by Britain upon foreign nations placed her superlatively in the foremost rank amongst commercial powers. Again, there were the vast discoveries of gold in California and Australia which materially and rapidly increased the interchange of trade between England and these countries. Thus, to use the words of the Royal Trade Commissioners :—" Various causes contributed to give us a position far in advance of other countries, which we were well able to hold for many years," but, the Commissioners add, *" those causes could not be expected to operate permanently, and our supremacy is now being assailed on all sides."* This seems only too true. All civilised nations now have their Railways, their Factories, their Workshops, their skilled workmen, and have provided themselves with the latest and most economical manufacturing appliances. To such an extent has this occurred that Britain, instead of supplying the nations of the world, is now not merely reduced to the position of an earnest competitor, but is also one of the chief commercial constituents of these nations—not apparently because she can afford to be generous in her encouragement of foreign competing industries, but because, by the trading policy which England has chosen to adopt, she fosters the production and importation of

foreign produce and manufactures, and buys extensively in what on the surface may appear to be the cheapest market, regardless of costly and far-reaching consequences to her own home and Colonial trade. A writer on this subject remarks that—

“If cheapness were the only thing to be considered in the Commercial policy of a nation, it would be far more advantageous to import the foreign workman and let him produce in England, rather than import the product of his toil; for if we imported the workman, England would not only have the wages of that labourer spent in her own country, but would also secure the lessening of taxation caused by the greater area over which the taxation would be spread.”

So long as England had a practical monopoly or a greatly preponderating control of the manufacturing industries of the world, she could well afford to disregard the lines upon which other nations conducted their commercial transactions. But in these days of breathless competition—in these days of sweating systems—in these days of short time movements and of absolute closure of British factories, when it would be well for our Legislators to realize that it is the first duty of a Government to find employment for the people—in these days of great agricultural poverty—in these days of idle capital unable to find remunerative investment at home—in these days of oft-recurring signs of disquietude and distress on the part of the employed and unemployed masses, and of commercial strife amongst the peoples of our own empire,—it seems like a measure of retrogression, it seems as a slur upon our national perception and judgment, it seems an infatuation of mistaken national pride, it almost seems a national crime, for England to adhere to independent and unreciprocated principles of commerce which threaten to lead her on to national calamity. Our foreign competitors have not seen fit to adopt our unprotective policy or even to recognize it as in any way necessary or helpful to their advancing prosperity or welfare. If only the struggle for commercial supremacy were reduced to a basis of fair and honest competition, there can be little doubt but that the British Empire will long remain supreme; but the prospect of establishing such a basis of trade amongst the nations of the world appears to be gradually growing more distant so far as Britain is concerned, and, as a result, we find that England is being compelled to relinquish her control of several of the principal branches of the world's commerce. Even with all her commercial advantages and reserves, and despite her well established connection throughout the world, our country cannot, in these days, but be affected by the protective policy of other powerful nations, and there must surely be some limit to the imposition of duties on British manufactures beyond which England cannot afford to look on with indifference. “Nations cannot be

independent of each other"—nor need we, as advocates of Universal Free Trade as distinguished from that unreciprocated Free Trade now practised and encouraged by England, be seceders from our principles if we admit that the hiatus between the commercial position of England and that of her competitors is steadily contracting, and that if the supremacy of our empire is to be maintained, and the interests of those of our people most in need of national care are to be protected and advanced, it will be necessary for the British nation to appreciate and utilize the advantages of commercial reciprocity, even though retaliation should be needful.

We have the testimony of the world's first economists in support of retaliative duties when such are necessary for the protection and preservation of a country's trade. In his "Wealth of Nations" Adam Smith has bequeathed to us his opinion thus—

"It will generally be advantageous to lay some burden on foreign for the encouragement of domestic industry, when some tax is imposed at home upon the produce of the latter. In this case it seems reasonable that an equal tax should be imposed upon the like produce of the former. This would not give the monopoly of the home market to domestic industry, nor turn towards a particular employment a greater share of the stock and labour of the country than would naturally go to it. It would only hinder any part of what would naturally go to it from being turned away by the tax into a less natural direction, and would leave the competition between foreign and domestic industry after the tax as nearly as possible on the same footing as before it. It may sometimes be a matter of deliberation how far it is proper to continue the free importation of certain foreign goods when some foreign nation restrains by high duties or prohibitions the importation of some of our manufactures into their country."

And we have similar testimony from John Stuart Mill, who states that—

"A country cannot be expected to renounce the power of taxing foreigners unless foreigners will in return practise towards itself the same forbearance."

"The only mode in which a country can save itself from being a loser by the revenue duties imposed by other countries on its commodities, is to impose corresponding revenue duties on theirs."

It is important, in considering the aspect of the subject before us, that we should glance at the progress made by England and her foreign competitors in order that we may be enabled to draw an intelligent comparison between their relative advancement.

Between the years 1860 and 1880 exports advanced in the

United Kingdom	...	...	77 %
United States	...	...	97 "
Germany	...	...	100 "
Belgium	...	...	174 "
Holland	...	...	195 "
France	...	...	58 "

or, taking imports and exports together, we arrive at the following comparison for a period of 15 years ending with 1884.

United Kingdom	24 %
France ...	39
Germany ..	56
Russia ...	14
Austria ...	65
Spain and Portugal	80
Holland ...	103
Belgium ...	81
United States	59

Thus, while the average advancement of the United States and Continental protectionist nations was 50 per cent. Great Britain advanced only 24 per cent. If we examine Savings Bank Deposits, which are frequently claimed to be an indication of the progress and condition of trade, we are furnished with the following comparison of the increase per head of population from 1860 to 1882.

United Kingdom	... ..	61 %
France ... ..	...	312 "
Germany ... ..	...	370 "
Austria ... ..	...	142 "
Italy ... ..	...	100 "
Switzerland ... ..	...	92 "

so that, whilst England has increased her deposits by 61 per cent., other nations are able to record an average increase of 203 per cent. Again, the consumption of Cotton since 1873 has increased over 80 per cent. in the United States, over 60 per cent. on the Continent, and not quite 9 per cent. in England.

In Germany the production of iron, the trade in almost every article manufactured in Sheffield, and the expansion of her woollen industries—especially as regards her supplies to foreign countries—have been steadily advancing, whereas the corresponding branches of trade in England have, relatively, been stationary or declining. In the glass trade Germany, Belgium, and Austria-Hungary are superseding England, Belgium alone having increased her trade in this commodity to such an extent that she is now nearly a million sterling before us though in 1870 she was £196,000 behind us.

If figures are not conclusive, take the opinion of experts on the condition of British and Continental trade. A member of the United States Tariff Commission who visited Europe for the express purpose of reporting upon the working of English and Continental systems defines the result of his investigations thus:—

"I found shoddy manufacturers from Batby and Dewsbury established in Prussia,—Lancashire and Scottish Spinners in Rouen—Leicestershire Hosiery manufacturers in Saxony—Yorkshire Wool combing establishments

in Rheims—Dundee jute mills in Dunkerque—all wool stuff manufacturers in Roubaix—English iron and steel mills in Belgium—and English woollen mills in Holland.

"Removing English capital to the Continent has secured a profitable home market, while England was near with widely open ports to serve as a 'dumping-ground' to unload surplus goods made by foreign labour superintended by English skill. In this way the English markets are swamped and her labour undersold."

Mulhall states that "during the last 20 years of this century, the linen industry of Germany has increased 300 per cent."

"The Nineteenth Century" of June 1883 contains this information—

"During the last 20 years the linen industry of great Britain has decreased 18 per cent."

And again the same magazine reports that—

"The shares of the leading Flax Mills in Germany are 20 and 22 per cent. above par. The shares of the ten principal Flax Mills in Belfast are 58 per cent. below par."

Thus if we judge foreign prosperity and the relative merits of British progress during the last 25 years by the criterion of statistical evidence, it would almost conclusively appear as if England's declension were attributable, in great measure, to the indiscriminative observance of unreciprocated Free Trade principles, and that the relative prosperity of foreign countries is due to the observance on their part of a protective policy. So also would it appear that England's Commercial Supremacy can only be permanently established through the medium of fair competition and exchanges of trade on a common fiscal basis, whether that basis be one of international Free Trade or international Protection. The inaugurators of England's Free Trade never anticipated that absence of reciprocity which at present exists. *Their Free Trade was founded on the assumption and in the distinct expectation that all other nations would emulate the example of England.* It was clearly their intention that England should merely take the lead in a grand and beneficial measure of reform, but that she should handicap herself, or any one of her important industries, was surely far indeed from their minds. Thus we find that Cobden in 1842 expressed his views as follows :—

"The Americans are a very cautious far-seeing people, and every one who knows them knows that they would never have tolerated their protective tariff if we had met their advances by receiving their agricultural products in exchange for our manufacturing products."

Now, however, as a matter of fact, after admitting into England for 40 years the agricultural products of America, we find the Americans as strong protectionists as ever.

In 1844 and 1846 Cobden again records his opinion in these words :—

"You have no more right to doubt that the sun will rise in the heavens to-morrow than you have to doubt that in 10 years from the time when England inaugurates the glorious era of Commercial freedom, every civilized country will be free traders to the back bone." \* \*

"I believe that if you abolish the Corn Laws, and adopt Free Trade in its simplicity, there will not be a tariff in Europe that will not be changed in less than five years to follow your example."

Far from being realized these prognostications seem now unfortunately to be further from fulfilment than they appeared to be in Cobden's time, and after more than 40 years of Free Trade in England, not a single civilized country is a Free Trader.

Again in 1844 Cobden remarked :—

"I speak my unfeigned convictions when I say, that there is no interest in the country that would receive so much benefit from the repeal of the Corn Laws, as the farm tenant interest in England."

The fulfilment of this prediction is, that the owners and tenants of land during the past 40 years have lost more than 150 millions sterling.

I commend these figures and quotations in their relation to the present position of British and foreign trade to the consideration of our legislators. If our country's supremacy is waning, then the time has surely come for all advocates of *universal* Free Trade to acknowledge the weakness of our position, and strive unitedly to bring about that condition of international traffic, that free interchange of commerce, which such men as Cobden and Bright so strongly and so ably advocated, but which, by the action of foreign nations, unchecked and uncontrolled by England as that action now is, has become a mere abortion of the Free Trade scheme of these great men. I refrain from dealing in detail with the merits and demerits of Free Trade or Protection, but express the conviction, that if the British nation continues to disregard the protective action of formidable competitors, and persists in patronizing a system of independent and unreciprocated Free Trade, she cannot fairly expect to maintain her Commercial Supremacy, although she may claim to be invulnerable as a trading power in any fair and honest struggle for commercial pre-eminence.

Actual figures support comparison by percentages, and also shew that in countries where imports have been taxed, exports have not decreased, but have expanded in much greater proportions than the exports of England. They further indicate that our exports to foreign countries have decreased £13 millions sterling since 1870, whilst to our Colonies they have increased £27 millions—thus, had not the colonial trade been in England's hands, her position would have been much worse than in 1870. The above decrease of £13 millions appears to demonstrate that British manufactures are being gradually excluded from protectionist countries. Whatever the effect of protection may be, the fact remains that protectionist nations are advancing much more rapidly than England in almost every branch of trade.

CALCUTTA ;

WILLIAM WILSON.

5, Lyons Range.

## ART. VIII.—PASSENGER FARES FOR LONG DISTANCE RAILWAY TRAVELLING.

**I**T was stated not very long ago in the Corporation of Bombay, during a discussion upon representing to the Government the advisability of placing lavatory accommodation in the 3rd class carriages of long journey trains, that such accommodation was unnecessary, for the reason that the 3rd class passengers in India do not travel a greater average distance than fifty miles. It is acknowledged that these 3rd class passengers form the bulk of the coaching traffic, the receipts from whom amount to 95 per cent. of the total receipts, and the Traffic Manager of a large Indian Company has made the remark, that so far from 1st and 2nd class passengers being of any benefit to his Company, if they could by such means get rid of their 1st and 2nd class traffic, it would pay his Company to give every 1st and 2nd class passenger five rupees to go elsewhere. The 3rd class traffic pays because the 3rd class passengers are at the principal stations, packed in the carriages as closely almost as eggs in a basket, space and weight carried being economised to their fullest extent, and because many passengers who can afford it do not travel in the higher classes owing to the great disparity in the fares. The working class in India are, next to China, probably the poorest and worst paid in the world. In the chief towns the wage of the unskilled labouring man is 5 annas per day, which, as an anna is now worth exactly one penny, is equivalent to 5d. per day. In the country districts the agricultural labourer considers himself well paid at 3 annas per day. The ordinary railway charge for 3rd class passengers is 3 pies, or one farthing per mile, just one-fourth the charge for the parliamentary train as it is called in England. But the lowest wage of a town labourer in England is 18 shillings per week or 36 pence per day, being seven times the wage of his compatriot in the Presidency city, while the lowest wage of an English agricultural labour is 9 shillings per week or 18 pence per day, equal to 6 times that of his fellow-labourer on an Indian farm. It thus follows that, other things being equal, one farthing, or 3 pies per mile is not nearly low enough to attract any considerable amount of coaching receipts in India. That this is so, is understood and acted upon by the Great Indian Peninsula Railway, who throughout the year run a special night train of 3rd class carriages, (which stops at every station) for 4th class

passengers, at the reduced rate of  $2\frac{1}{2}$  pies per mile, which for the average of 50 miles, amounts to  $10\frac{1}{2}$  annas per passenger. It is thus evident, by comparison of the respective wage rates of England and India, that if 3rd class passengers are to be attracted to travel long distances, if the 250 million population of India are to be persuaded to travel at all, the rate per mile charged for long distances must be largely reduced.

The administrations of the various English railways have, for many years, been moving in this direction. The competition between the various lines is so keen that, during the summer and autumn touring season, tourist return tickets are issued from London to Edinburgh and Glasgow, to Rotterdam and Amsterdam, to Bolougne and Paris, and to many other cities at the usual charge for a single journey or less, the passengers being entitled to travel and break their journey by every ordinary train, special daily express trains being also, in many instances, run for them. In addition, frequent excursion special fares are advertised from the provincial towns to London at similar reduced rates, the passengers in many cases being entitled to travel by the ordinary trains. The system of reduced fares in England has been developed by means of competition, hence the reductions are only made for return tickets, to prevent passengers from returning by competing lines. In India this competition, owing to the fewer lines and the enormous extent of country traversed, is necessarily absent, and coaching traffic receipts can only be increased to any extent by the companies taking an enlarged view of their position, and of the special circumstances of the people whom their railways are intended to serve. Though the 3rd class passenger is supposed to be averse to travelling, yet it is remarkable the distances they manage to cover in the endeavour to procure a living for themselves and families. Bombay, it is known, is a city of foreigners. Every native inhabitant has his family village in the districts, at a distance nearer or farther removed. Though the majority probably come from Guzerat and Maharashtra, within 300 miles of Bombay, yet many have to travel much further distances. The merchant and shopkeeper hail from Guzerat, Kathiawar, Kutch and Rajputana, the carpenter from Guzerat and Kutch, the mason from Poona and Kathiawar, the bricklayer from Hyderabad in the Deccan, the office sepoy from the Malabar Coast and Delhi, while the cow and buffalo keeper hails from the Jumna and Ganges districts. All these people have to visit their paternal home once a year if they can afford it, and every larger-sized village, near and remote, contains a temple, a god, a river, or spring of water, which is efficacious to cure all diseases and to bring good luck to the visitor, its reputation, as in the



case of all pilgrimages throughout the world, being in direct proportion to the distance travelled over, and the pain, trouble or money expended in reaching and returning from it. Just the same as every Musalman pilgrim to Mecca feels himself so raised in social estimation as ever after to call himself "Haji" or "pilgrim" as his distinctive title, so every Hindu feels, after a pilgrimage to Nasik, Pandarpur, Allahabad, Benares, or Jaganáth, that a sort of reflected glory of the god has passed over him: he, as a travelled man, has acquired an enhanced reputation among his fellows. It is worthy of remark, as showing the influence that railways speedily exert in making people travel, that since the opening of the Rajputana Railway within the last few years, two new classes of work people have, in large numbers, come to Bombay from Malwar, *viz.*, stone masons and bricklayers.

What is needed is a carefully considered system of reduced fares for long distances, which will encourage the ordinary man in search of health, business, pleasurable relaxation, or salvation, from sin, to extend the circle of his travels.

How can this be brought about? It must be acknowledged that the fact that 3rd class passengers travel no further on an average than 50 miles, is very like a confession of failure on the part of the railway administrations to meet the demand. Let us consider the various heads of expenditure that passenger fares are levied to meet.

The passenger receipts have to bear the whole interest on the cost of, and the charge for, the maintenance of the passenger terminal building, and of the working staff employed in this building. Also the cost of passenger engines, carriages, and carriage shops, and of the staff employed in repairing them, and the running charges of the passenger trains, such as coal and stores, the wages of the driver, firemen and guards. All other charges the coaching receipts share with the goods traffic in the following items, in varying proportions, depending partly upon the respective volume of coaching and passenger traffic, but more especially upon the weight and speed of the engines and trains, goods trains in the majority of cases running much heavier train loads with far weightier engines, the disparity being partly counterbalanced by the greater speed at which the coaching traffic is run. These items are interest on cost, maintenance, and staff of district stations, cost, maintenance, and staff of the locomotive shops, of bridges and permanent way, semaphore signalling apparatus and staff, locomotive tanks, telegraphic instruments and permanent plant, such as poles and wires, also the working telegraph staff.

Though the passenger traffic as a whole has to bear its share

of the cost and maintenance of all the above items, yet in respect of the cost of station buildings, and more especially that of the working staff, which last forms the large proportion of the working expenses of a railway, each individual passenger is exempted from any share in the cost of stations and station staff, except those of his two terminal stations.

The train in which he is travelling has to bear, as a whole, its share of the cost of all the items mentioned, but each passenger as an individual is concerned only with the two stations at which he takes his ticket and gives it up on arrival at his destination, and his share of the cost of the signalling staff at each block station.

But as we are advocating a system of reduced fares to encourage long distance travelling, and do not propose any reduction in local fares, it is proper to base the argument upon the additional number of passengers that will be carried, and upon the number of existing passengers who will be carried longer distances. In the first case, the additional passengers will travel in the existing train, the additional accommodation provided for them being one or more carriages according to their number. The cost in this case will be that of the extra coal used in propelling the deadweight of the extra carriage and of the passengers it contains, and the share of the cost and maintenance of the carriage. The proportion of cost of these two items attaching to each additional passenger is so microscopical, so infinitesimal, that we should be justified at putting it at one-twentieth the cost of each existing passenger. In the second case also, the passengers will travel the additional distances in the existing train, but no additional accommodation will be required for them, they will retain their seats for a longer period, and thus help to keep the train full, in the poorer districts of small local traffic, where, under existing circumstances, it runs comparatively empty. The additional cost of carrying passengers the longer distances will be the additional quantity of coal expended in the proportion that the weight of the passengers so carried bears to the weight of the whole train. The weight of passengers is so small, compared with the deadweight of the engine, guards' breaks and carriages which carry them, that we should be within the mark in putting this additional cost of double the distance for each existing passenger at one per cent., one hundredth part of the cost of existing traffic, so small an excess cost as not to be in the limits of practical calculation. Take an extension of the first case and call it a third case. Suppose that the number of the passengers has so increased as to be beyond the power of the engines. This necessitates running extra trains. The cost attachable to the passengers run in each extra train, is the bare cost and maintenance of the rolling stock of the extra

train, and of the driver, firemen, guards, coal, and stores used by each particular train for the time only that it is running. None of the main items of cost and maintenance of stations, permanent way, and telegraphs, are debitable to this additional traffic, as these items of original cost have already been provided for in the existing traffic.

But the second case presented cannot be expanded into a corresponding fourth case, for the reason that the passengers travelling, upon the assumption of longer distances, retain their seats in the train, and therefore are, for the longer distance, carried by the railway without additional cost. The third case has been well understood and acted upon in the Suburban, or, as it is called, the local traffic of the B. B. & C. I. Railways between Bombay and Bandora. The distance between these stations is  $10\frac{1}{2}$  miles. There are, including the terminals, eleven stations. The trains run every 30 minutes, calling at all stations, and do the distance in 40 minutes. Each train is made up to carry 400 passengers in 10 carriages, the guards' compartments are cut down to a *coupe* at the front and rear of the train, which being light is drawn by a tender engine on one frame. Each train has the Westing House break attached, and does the return journey in two hours. There being four trains every two hours, the whole traffic of about 40 trains each way daily is worked by four trains, the cost of the rolling stock is divisible by ten, the double shift of driver, firemen and guards by five, and the permanent-way stations and staff by 40, in order to ascertain the train mileage rate. The Company for this Suburban traffic issue quarterly season tickets to 1st, 2nd and 3rd class passengers at something like one-fourth their charge for a single journey, the system upon which they work the traffic showing that they are well within the mark in doing this.

Take also the instance of the Bombay Tramway Company which formerly charged 3 annas per journey from the Sassoon Dock to the Byculla Station, a distance of  $4\frac{1}{2}$  miles, and 2 annas from Sassoon Dock to the Crawford Markets,  $2\frac{1}{2}$  miles. Some years ago the Company reduced the former charge to 2 annas, thus, according to the usual putting of the argument, carrying its passengers from the Crawford Markets to Byculla, the distance of 2 miles, for nothing. The Company found this far-seeing policy to succeed so well, that, when it extended its line to Parell, a further distance of  $1\frac{1}{2}$  miles, it made no additional charge, and thus carries its Sassoon Dock to Parell passengers the distance of  $3\frac{1}{2}$  miles, out of a total distance of 6 miles, without charge.

The usual rate of charge on Indian railways is 3 pies per mile for 3rd class passengers, 6 pies for 2nd class, and 12 pies, equal to 1 anna or 1 penny, for 1st class. Some Companies

and Government lines charge more, none (excepting those in Madras) less. The disparity between the rates charged is so great as to defeat the purpose intended. The writer is accustomed to travel 1st class in distances up to 200 miles, but in a recent pleasure trip to the North-West, in which he did 3,000 miles in a fortnight, the difference between 1st and 2nd class fares was so great, that it would have been foolish to go to the greater expense, and he found to his surprise, that except when close to large cities, the latter was just as comfortable as the former, and only half the cost, all 2nd class carriages being now provided with sleeping berths and good cushioned seats and backs. In order to overcome this feeling of thriftiness, the 2nd class should not cost more than 50 per cent. more than 3rd class, and first class 50 per cent. more than 2nd class. This is very much the scale of difference on English lines. Most people who can afford it, will pay this difference for the sake of the increased comfort given by superior fittings, more roominess, and the innate satisfaction felt at the deference exhibited to those travelling in the superior class. Railway administrations, like other business people, must be prepared to profit by the failings of human nature. Opinions will, no doubt, greatly differ as to what should be the amount of the reduction made for long distance travelling, nor has the best basis for such reduction ever been decided upon. All will agree that a considerable reduction is fair, and the only way to make Indian lines really useful. A scheme has been seriously proposed in England, based upon the wonderful success achieved by the one rate of the Post Offices and Telegraphs, to charge a shilling, 3rd class fare, for all distances outside a fifteen mile radius of London. The rate proposed may be too low, but there is nothing ridiculous in the proposal itself. The attendant expenses of refreshments, and loss of time on a long railway journey, are so considerable, that no one who has business in Oxford, is likely to travel to York or Aberdeen because he would be carried the additional distance for nothing. With the shilling ticket system, a passenger would not be allowed to break his journey, the stoppages of a tourist or commercial traveller might entail the purchase of twenty tickets or more before Aberdeen was reached.

The system which, to the writer, seems more suitable to the long distances of India is as follows :—For the present, at least, to retain all existing fares up to the distance of 50 miles. Beyond this distance to reduce fares by equal amounts every 10 miles up to a further distance of 500 miles ; so that a traveller, who takes a 3rd class ticket on any one line for a distance of 550 miles or more, shall have to pay 1 pie only per mile instead of 3 pies or more as now. Similarly, that a 2nd class passenger, for that, or a longer distance, shall have to pay  $1\frac{1}{2}$

pies per mile instead of 6 pies or more, and a 1st class passenger  $2\frac{1}{4}$  pies per mile, instead of 12 pies or more.

If a passenger should travel over two or more lines, the total charge should be made according to the separate differential rates applicable in the table for the distance run on each Company's line. For instance, a distance of 1,000 miles run upon three separate lines in the proportion of 200, 300, and 500 miles, each Company would charge at its rate for 200, 300, and 500 miles respectively.

The first of the following table gives the differential rates for the 3rd class, reducing from 3 pies to 1 pie per mile. Where the initial rate is over 3 pies, the table will need recalculation. There are 50 separate fares charged for each 10 miles from 50 to 550 miles; but the few instances given are sufficient to show how the table is constructed. The other two tables show the corresponding rates for 2nd and 1st class.

Initial rate in pies.	Multiplier.	Rate charged in pies per mile, cor- responding with distance.	Distance for cal- culation in miles.	Total distance corresponding with rate charged.
<i>3rd Class.</i>				
3	X .333	1'000	500	550 miles and upwards.
3	X .346	1'040	490	540 " to 550 miles.
3	X .466	1'400	400	450 " " 460 "
3	X .586	1'760	310	360 " " 370 "
3	X .600	1 800	300	350 " " 360 "
3	X .733	2 200	200	250 " " 260 "
3	X .746	2'240	190	240 " " 250 "
3	X .866	2'600	100	150 " " 160 "
3	X .986	2'960	10	60 " " 70 "
3	X 1'000	3'000	0	50 " " 60 "

Method of calculation, see multiplier.

$\frac{1'000 - .333}{50} = \frac{0'666}{50} = 0.0133$ , being the difference of multiplier for each 10 miles.

*2nd Class.*

3	X .500	1'500	500	550 miles and upwards.
3	X .530	1'590	490	540 " to 550 miles.
3	X .770	2'310	410	460 " " 470 "
3	X .800	2'400	400	450 " " 460 "
3	X 1'100	3'300	300	350 " " 360 "
3	X 1'130	3'390	290	340 " " 350 "
3	X 1'370	4'110	210	260 " " 270 "
3	X 1'400	4'200	200	250 " " 260 "
3	X 1'670	5 010	110	160 " " 170 "
3	X 1'700	5'100	100	150 " " 160 "
3	X 1'790	5'370	70	120 " " 130 "
3	X 1'970	5'910	10	60 " " 70 "
3	X 2'000	6 000	0	50 " " 60 "

$\frac{2'000 - .500}{50} = \frac{1'500}{50} = 0.030$ , difference for each 10 miles.

Initial rate in pies.	Multiplier.	Rate charged in pies per mile, cor- responding with distance.	Distance for cal- culation in miles.	Total distance corresponding with rate charged.
<i>1st Class.</i>				
3 X 750		2'250	500	550 miles and upwards.
3 X 815		2'445	490	540 " to 550 miles.
3 X 1'400		4'200	400	450 " " 460 "
3 X 1'985		5'955	310	360 " " 370 "
3 X 2'050		6'150	300	350 " " 360 "
3 X 2'700		8'100	200	250 " " 260 "
3 X 2'765		8'295	190	240 " " 250 "
3 X 3'350		10'050	100	150 " " 160 "
3 X 3'545		10'635	70	120 " " 130 "
3 X 3'935		11'805	10	60 " " 70 "
3 X 4'000		12'000	0	50 " " 60 "
4'000 - 750 = 3'250 — 6'6r difference for each 10 miles				

There is no particular virtue in the final rates and distances above given.

Some may think that the reduction, especially in 3rd class fares, does not go far enough, others that the reduction should be based upon 300 not upon 500 miles. The basis upon which the calculation is made, shows that nothing is simpler than to construct such a differential scale of rates, applicable to the varying initial rates of the different railway administrations in India. It will be seen that the proposed scale will not, to any considerable degree, reduce the receipts on existing traffic. For instance, no one in Bombay thinks of travelling beyond Poona, a distance of 120 miles. The present 2nd class rate to Poona is reduced from Rs. 3-12-0 to Rs. 3-6-0, and 1st class from Rs. 7-8-0 to Rs. 6-10-0.

This remark, however, does not apply to the 1st and 2nd class traffic from Calcutta to Simla and Bombay, and Bombay to Madras and the North-West. The reductions here proposed will cause a certain immediate loss to the Companies concerned, but will result in a largely increased through traffic, many 3rd class passengers will go 2nd class, and 2nd class change to 1st class. So far as the Calcutta to Simla route is concerned, the fares are eventually paid by Government, which is therefore interested in getting the proposed reductions effected.

As to the general question of reduced fares for long distances, the writer's experience is, that the existing system forms an absolute bar to travelling. The writer has often been on business and pleasure to Poona, 120 miles, and on pleasure to Khandala, Matheran and Surat, 80, 60 and 160 miles respectively. He has lived 25 years in Bombay. During this time he

has been once to Madras and once to Agra on business; he has also been once to Delhi and once on the South Maratha Railway to Goa on pleasure. He has never been to the Himalayas, neither to Simla nor Darjiling. He has never visited Calcutta, nor the Nilgiris, nor Mount Abu.

One reason, perhaps, why railway men have never felt a personal interest in this question, may be because all railway officials are entitled to, or rather are always given, on application, free 1st class passes for themselves, their families, and servants, over every railway in India and England, probably on every line, all over the world, whenever they chose to ask for them. This is a communistic state of things, in which, to a reasonable extent, the general public ought now to be allowed to share. The reason why this concession is granted to a railway brother official is because, as has been already indicated in this article, a few extra passengers daily cost nothing to carry, and because, if the concession were to be abolished, the officials concerned, and their families, would never travel beyond the limits of their respective lines. Railway officials are therefore perfectly right, on strict business considerations, to accord their craft this privilege. The general public do not grudge them this, but are justified in urging that *their* good should not make them insensible to *other's* misfortunes.

The following extract from the *Graphic*, of August 3rd, 1889, shows that these ideas are making way on the continent of Europe:—

"A sweeping reform begins this week on the Hungarian State Lines. The Government propose to carry travellers at almost uniform charges, like letters, dividing the distances into two zones, local and general. The local zones comprise two charges, one from station to station, 6d., 3d. and 2d., according to class, the second, including the whole distance and costing 8d., 4½d. and 3d. The general zones vary from 15 miles to beyond 140, and are sub-divided into fourteen zones, the fares for each zone from the first to the twelfth, costing 10d., 8d. and 5d., and for the two last 1s. 8d., 1s. 2d. and 10d. a piece.

*Distances beyond 140 miles cost no more:* for example, the journey from Buda-Pesth to Fiume on the Adriatic can now be made for 13s. 8d. instead of £3 1s. This plan appears excellent for long distances, but it is doubtful if it will answer for short journeys. If it succeeds the private Hungarian lines will be obliged to adopt the system."

These fares confirm fairly closely the proportions between 1st, 2nd and 3rd class fares that are in this article proposed for adoption in India. On the local traffic zones the 2nd class is 50 per cent. more than the 3rd, and the 1st class about double the 2nd. On the country traffic zones, the 2nd class is 40 per

cent. in excess of the 3rd, the 1st class being about the same proportion in excess of the 2nd class. The 3rd class fare is on the average, for the 140 miles,  $\frac{1}{2}d.$  per mile, but it is positively startling to one's sense of propriety to find that a so-called reactionary continental Government has decided to carry passengers upon long journeys for more than one half the distance for nothing. Fiume is about 300 miles from Buda-Pesth, which is in the centre of Hungary. The total fare of 13s. 4d. works out the correct calculation for the 1st class rates, so that the new fares are, for the long distance, given between one-fourth and one-fifth those of the old fares. The 3rd class fare for the whole distance is less than one farthing (3 pies) per mile. One should know the daily wage in Hungary (it must be much more than 5d), in order to exhibit, by comparison, how much the people of India can afford to pay per mile for their long distance travelling. The rates for the two Hungarian suburban zones also show that the Government only charge for the outer zone one half that for the inner. The reason for the reduction is evidently that already adduced in this article, that a passenger travelling a long distance only uses two stations, and costs no more to the staff in looking after him than a passenger who goes a mile only from station to station. It follows from this argument that contract passes for suburban traffic should not be charged an equal mileage rate according to distance, but at differential rates, a short distance being charged per mile at a considerably higher rate than a 10 or 30 miles distance. In fact an equal mileage rate is no where fair and just,—neither for the administration, the passenger, nor for goods; the terminal charge must be separately expressed, and this can only be done by differential rates according to distance. No reference has here as yet been made to passengers' luggage and parcels, but it is evident that, if the considerations here advanced are on a sound basis, a differential mileage scale of charges for luggage and parcels will have to be issued simultaneously with, and on the same system as, the tables of passenger fares already exhibited. For some years past a system of differential charges for light parcels, provisions, and ice has been in force throughout the Indian lines.

The principle here advocated is thus already in partial use. What is now needed is to extend its operation on a sound business basis.

DAVID GOSTLING, F. R. I. B. A.,

BOMBAY.

*Architect.*



## ART. IX.—LORD LANSDOWNE ON EDUCATION.

THE Viceroy's address at the Punjab University Convocation has brought the whole Educational Question before the public in a manner that no amount of unofficial writing or speaking could possibly have done. He has shewn in no wavering tones his ideas as to what the real aim of education should be. His opinion is, of course, shared by every man of culture whether Native or European in the land, but the principles laid down by him are as foreign to the minds of the bulk of Native students as were Western Educational ideas to those who studied under the Rishis of old, in the jungles and desolate places of the land.

The Viceroy takes up three points which he rightly shews to be the blots on the Educational Idea as it presents itself to the native students' mind.

The first is that the native schoolboy, after having worked through school and college, considers that a University degree should follow as a matter of right ; that this is the prevailing idea, no one who has studied the subject can possibly doubt. Apart from the complaints on this head alluded to by Lord Lansdowne, we are all familiar, especially in Bengal, with the constant murmurings against a difficult examination, with the constant appeals for an easier standard : in other words, the ever sounding murmur that the examinations should be levelled down to the standard of the students' acquirements. We never hear, as one would at home, of a determined effort to buckle to and work up to the standard which at present seems a severe one. The feeling of glory which in England attaches to a man who was a high Wrangler in So-and-So's year, or took his double first with a pre-eminent scholar, has no existence in the mind of the student who wants a degree and nothing more. Education, like every thing else, must be made easy for the student in this country, else "he won't play." Learning for learning sake is a useless pursuit to the minds of nine-tenths of the students of the present day. They must have a University degree, else they consider their labour is but lost.

- The Rishi system had its advantages over this. Under it, men endured hardship and toil for the love of what they learnt. Hence the literature handed down from the days when the terms Middle English, Upper Primary, and Middle Vernacular were as yet unknown to men, has a genuine ring

about it which, it is to be feared will never be found in the literature which XIXth century Indian schools and colleges is destined to hand down to posterity. The life of the late Justice Oonocool Chunder Mukerjee is of course a brilliant exception to this criticism.

The next point on which the Viceroy touched is the insane demand for employment in the Public Service claimed by every man who has taken a University degree. Lord Lansdowne might have gone further, for this demand is not confined to those who have taken that degree, but to everyone who has failed, not only to take a degree, but to pass the Entrance Examination. The extent of this craze is something amazing, nor does there seem to be the least likelihood of its stopping. We are now in this position. We are educating at a cost, which is to all intents and purposes nominal, a number of young men every year, and we are turning them out with a rooted idea that the Government which has educated them is bound to provide for them. This has not only resulted in a number of men forsaking the callings which their fathers followed before them and rushing into the race for Government employment, but, so far has the demoralization spread, that men who can well afford to pay for their son's education, seek by every means in their power to accept and to claim gratuitous education for those youths. The great aim in many municipalities is to increase the facilities for English education at the expense of the rate-payers : in other words to provide almost gratuitous education for the sons of the bettermost classes of the community. It is as though in England, gentlemen who could well afford to educate their sons were to agitate for the extension of the Board School system to save the expense of a public school education for their children. It will, of course, be answered, that there are no independent schools in this country corresponding with our English public schools, and this brings me to the point which I wish to bring forward. It may have been necessary, and doubtless was necessary when education was in its infancy, to provide schools and colleges, if for no other reason than to shew the people how to work an educational system utterly foreign to them. That necessity has now passed away. Education has taken root amongst the people. The tree needs no longer the protection of fascines. Higher education should now, as far as aid from either Government or local funds is concerned, be allowed to take its own course. It may seem strange to include local funds amongst the sources from which educational aid should not be given. But the reason is obvious as long as the desire to spend the money of the local ratepayer on schools which are destined to benefit those who can well afford to pay for higher education

prevails, as it undoubtedly does in most of our local bodies, so long must this desire be restrained by law. Local bodies should be compelled to provide primary education, and until this and the more legitimate work of road-making, sanitation, &c., &c. were thoroughly carried out, higher education should be paid for by those who want it, and not from the general fund contributed by the ratepayer. The present demand for education at a nominal cost is unhealthily abnormal; compliance with it is nothing more or less than the encouragement of a system of educational pauperization, of which men, for whom such a system was never intended, unblushingly avail themselves. The trade of the schoolmaster, like every other trade, should now be free, and be subject to the natural laws of demand and supply. There are enough educated men about the country now who could earn a respectable living as schoolmasters, and quite enough to supply the real demand for *education*, as apart from the unhealthy demand for a chance to enter the race for Government employment. Were education to be left to fight its own battle to-morrow, there would be no diminution whatever in the number of the students who seek learning for learning's sake, and who would pay a proper price for its acquisition. There would, of course, be a great falling off in the number of those who see that they can get educated for nothing, and leave those pursuits in life for which they are best adapted in order to become clerks in Government offices, or get any employment under the magical term "Sirkari Naukari." I am far from advocating any system which would leave the masses in ignorance. It is the duty of every civilized Government to ensure that every one of its subjects should know how to read and write; my remarks therefore do not apply to primary education. I would even go further and say that, in the absence of the great Universities with which pious founders of old, and the rich men of more modern times have endowed the United Kingdom, we are more or less bound to provide Universities for the conferring of degrees on those who had qualified themselves to receive them. There must be some recognized hall-mark, and Government is, in the absence of any other recognized body, bound to support and encourage Universities for the purpose of giving that stamp to those who have worked well and honestly to earn it. I submit, however, with all diffidence, that the time is now ripe for leaving every school between the Patshallah and the University to its own resources. There is certainly not a town in Bengal where, if the Zillah School were closed to-morrow, there would not, before the end of the week, have sprung up one or more educational institutions, the masters of which would be earning a respectable living.

The wealthier portion of the community would, it is true, have to pay them, and in fact all those who desired *higher education* would have to obtain it as they obtain every other luxury, by paying for it. If this were done, more local money could be spent on extending primary education, and perhaps the question of sanitation might come within measureable distance of solution. At any rate the crowd of office seekers would be sensibly diminished. The holders of University degrees who had received their education as they do in other countries at their own expense, would be of a very different class to what the present men are. They would be fewer in number it is true, but would be of the stamp of men who now ornament, the various professions in this country, and many of whom are excellent public servants of the Crown. We should get rid of the masses who, having been provided with a free education, now turn round and demand State employment as a right.

The third point upon which Lord Lansdowne has given expression to his feeling is, regarding the complaint that is made of the absence of moral teaching in our schools and universities. In fact, our old friend "The moral pocket handkerchief" is again waved before our eyes. If the idea of a "moral text book" had not been seriously mooted, one would have imagined that, the idea of teaching morals by the same method as that by which Geography or History is taught, was put forward as a joke. The promulgation of the ten commandments was not supposed *in itself* to make people good. But the advocate of the moral text book evidently like—

John P. Robinson he

Says they didn't know everything down in Judee.

I am not aware that a moral text book has as yet seen the light, though it was rumoured that certain pundits in Gya were engaged in compiling such a work. It would have to be one of most artistic simplicity, however, to be better able to teach *those who require a book to teach them morals*, than is the present simple Penal Code with its useful corollaries pointing out the consequences of a neglect of any of its precepts.

The Viceroy has, it is to be hoped, given the death blow to this Pickingniffian theory. He says, "Whether moral training is associated with religious sanctions or with an attempt to teach dogmatic theology, I do not believe that you can here, or elsewhere, teach morality in the same way as you teach science, history or law; and I am sure that those who have been educated at our Universities at home will bear me out when I say, that in a University it is not to lectures in ethics, or to theological education that we look to strengthening the moral fibre of our young men in England. . . . The qualities of *purity, modesty and respect for authority* (the italics are my

own) whether in the family or the State, are qualities which tutors and professors will inculcate in vain unless supported by the great body of public opinion outside; and it is therefore for the leaders of public opinion in India to see, that a high standard of morality is observed, and that the efforts of the Government for the education of its youth are ably seconded by their own efforts in the same direction.Δ

How far the principles laid down in Lord Lansdowne's advice have hitherto governed those who exercise any influence over the youth of this Province, is shewn by the modest demeanour and the respect for authority shewn by the ordinary Bengali schoolboy. Had his father to pay reasonably for his education, he would doubtless see that he got value for his money, and that the youth occupied himself in pursuits other than politics and taking part in public meetings.

Hardly had the echo of Lord Lansdowne's words died away, when the recent public meeting in Calcutta illustrated, more than all the writing in the world could do, the pitch to which our schoolboys have reached. I quote from a public newspaper for the benefit of those who would naturally suppose that I was romancing in saying, that a parcel of schoolboys had the power to upset the proceedings of a public meeting in Calcutta presided over by the Lieutenant-Governor of Bengal. Home readers will scarcely credit it, but here it is:—"Babu Surendro Nath Banerjea moved. . . . The amendment was held to be carried on a show of hands, and the Lieutenant-Governor promptly rose and withdrew. It was considered that the vote had been practically carried by the boys attending Babu Surendro Nath Banerjea's school who were present in large numbers." The next day's paper had a long leader discussing the facts of this schoolboy vote. Can anything go further to shew that it is time that our educational policy were entirely overhauled and reconsidered. The incident brings us back to a celebrated dialogue once held in the town of Ipswich:—

"Grummer" said the Magistrate.

"Your Wash-up."

"Is the town quiet now?"

"Pretty well, your Wash-up," replied Grummer.

"Pop'lar feeling has in a measure subsided, consekins o' the boys having dispersed to cricket."

Only schoolboys of the stamp of the heroes of the Calcutta meeting do not disperse to cricket. They go to talk callow crudities which they think politics, or as their confrères at Dacca once did, to discuss such questions as "Ought we to obey our parents?" Cricket produces a different kind of schoolboy. This is the product of modern Bengal Education.

EDITOR.

ART. X.—“CARRY DOWN THE MAN A PRESENT.”  
—GEN. XLIII, V. II.

I WAS travelling some years ago in a Bengal district with a native gentleman whose keenness of observation was only equalled by the quaint manner in which he expressed his thoughts. He has since joined the majority, and in another world may “listen for sounds from below,” as he used to express it, “with pleasure and with pride.” We were talking about the diffusion of public opinion amongst the masses in Bengal apropos of certain public meetings that were then going on. We had just passed through a well known dense jungle, and on the outskirts of it stood a prettily situated homestead. It was the *basti* of a tolerably well-to-do peasant who salaamed to us as we passed by. “Do you think, Sir,” said my companion, “that that man knows of, or thinks anything about the Viceroy?” We were then under the rule of that Viceroy whose popularity was supposed to have permeated every cottage in Bengal. “Why Sir,” he continued, \* “the Darogah is his Viceroy.” I then asked him whether he had any personal recollection of the procedure adopted by the Darogah when paying a visit to a village, and he said that he had. I give his account of it as I took it down at the end of the journey:—

“When the Darogah approaches a village, all business is at a standstill. The women all fly to the fields and the jungles, and the men sit trembling just as chickens do when a hawk darkens the sky above the moorghi-khanah. The Darogah halts in a tope or under a tree about a mile from the village, and sends a constable on ahead. Every one asks the constable on what business the Darogah has come, but he remains silent or gives, after being fed, either false or evasive replies. Each one who is conscious of crime, nay, even he who has strayed from the strict path of virtue, thinks that he himself is the luckless one who is the object of the visit. The next question is, ‘At whose house will the great man condescend to put up?’ To secure this honour, dallies of more or less value, according to the means of the senders, are “carried down” to the place where the Darogah is halted. Unless some special reason governs his decision, the Darogah elects to put up with the man who sends the best present. He, however, does not despise the smaller offerings, but takes all. A happy man is he,” continued the narrator, “with whom the Darogah puts up, for he is free

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\* Darogah is the Sub-Inspector of Police,

from fear so long as that Darogah remains at the thannah." These elaborate proceedings may have been gone through, when the Darogah is on some ordinary business, and has no particular case, either true or false, to investigate. The fear of "the man" that induced Jacob to have a present carried down, is as strong in Bengal to-day, as it was in Chaldea when the Patriarchs lived and flourished. Now, I am not claiming to put forward anything new or startling in propounding the idea, that carrying down the man a present is as essential to the opening of any transaction in this country as Jacob thought it to be, when he had reason to think that the Lord of Egypt was not quite pleased with him and his family. For many years back I have been anxious to find out some particulars as to the *man* who receives the present, and the nature of the present that is carried down to the Thannah or Cutcherry, as the case may be. There is not, I imagine, a District Officer in Bengal or in any part of India, who is not aware of the existence of the practice, and except in some flagrant cases, there is no man who can detect it. The reason is not far to seek. The people themselves do not regard this giving of presents as anything wrong; and so ingrained has the habit become, that an ordinary suitor would think there was something uncanny somewhere, did he conduct a case to a successful issue without the distribution of the customary dole. He would have a latent fear that, in his victory, lurks some germ of defeat which would eventually grow for him into a fruit of bitterness. I do not believe that the ordinary suitor has yet been found who has tried to work a case through without having the item *bazi kurcha* (extra expenses) admitted in his Mukhtear's bill, and *bazi kurcha* covers a multitude of sins in the way of illegal gratifications. The recipients of these presents would, of course, be the last people in the world to admit the existence of this ancient custom.

One can picture to oneself the look of pained surprise,—a look more of sorrow than of anger—that would come over the face of an old peshkar, were you to hint that anything beyond the monthly 30 rupees ever found its way into *his* pocket. It is, thus, next to impossible to find out any given case of receiving and giving presents. Both the giver and receiver are interested in concealing the transaction, and even if one were fortunate enough to find an entry of the expenditure of money for illegal purposes in a Mukhtear's account, that would not convict the receiver, who would readily put down the entry as having been maliciously made. I have, however, taken some pains to ascertain, from reliable sources, what the nature of these presents is, and how they are distributed. The information I have collected is accurate, and I think an account of the various presents given in the ordinary course of business, before the police and in the

courts, may be interesting. I am also in hopes that it may be useful as indicating the direction in which this curse to the country may be watched if not checked. The information has been collected with much difficulty. Had I tried to get it myself I should have utterly failed. I shall first try to shew the means whereby underpaid sub-Inspectors, Head Constables and Constables, are enabled "to live delicately" on incomes on which no man outside the force could keep up a decent appearance in ranks of life corresponding with those grades in the service.

In any ordinary Police Station there is an investigating and writing establishment. This consists usually of a Sub-Inspector, two Head Constables, and a Writer Constable. The pay of the first named ranges from Rs. 30 to Rs. 80 a month, that of the Head Constables from Rs. 10 to Rs. 25, whilst the Writer Constable receives from Rs. 6 to Rs. 9 a month. At out-posts, there is but one Sub-Inspector or a Head Constable and a literate Constable. The Sub-Inspector's pay at an out-post seldom exceeds Rs. 30. The Head Constables Rs. 25, and the literate Constables Rs. 9. In most cases the pay is of the lowest grade, because, in the district force, there are very few of the higher grades of each class sanctioned. A certain number of Police Stations and out-posts are grouped together under an Inspector. The pay of these officers ranges from Rs. 100 to Rs. 250. Both they and the Sub-Inspectors are required to keep horses, but they are neither allowed horse allowance or travelling allowance. In many instances they use their animals for locomotion, but in most cases, the pony is trotted out when the District Superintendent or the Magistrate comes along: at other times the more effeminate and luxurious dhooly carries those officers about on their rounds of duty; even a Head Constable, with a proper sense of his dignity, will seldom be found walking. As a matter of fact there is hardly a station where illegal gain is not the rule. It is not much to be wondered at, for, as a high authority once expressed it, putting a man into a blue jumper and teaching him a ridiculous form of Salaaming, is not in itself sufficient to convert a rogue into an honest man. It requires something more than that; and that something is unattainable in the Police force as at present constituted, unless at a cost utterly beyond the possibility of consideration.

The Sub-Inspector, or any Police officer who keeps a horse, has not much trouble about the feeding of the animal. He simply turns him out to graze on the village crops. This procedure is simple and saves trouble. The villagers, however, do not like it. In one instance I know of a Police out-post having been opened almost under the eyes of an officer of magisterial



powers. It was near a tank : the first thing that had to be done was to excavate a new tank, for the policemen here in India, as traditionally in London, are admirers of the fair sex : and reputable village women did not care to come and bathe or draw water near the thannah. Next, some 300 bigahs were given up and went out of cultivation ; the people who cultivated them went elsewhere, where they had not, it is true, the benefit of police protection, but then they had not the Darogah's pony and cows to feed on their crop. The Darogah's syce, it is to be feared, also grazes on the village.

There are two main heads into which Police gain can be divided : one is obtained by the suppression of crime, the other comes in the course of investigation into offences reported at the Thannah.

The former is the simpler and less troublesome method, and is carried out in this wise. When a petty theft occurred in a village, such, as he who in Ireland is called "the village blayguard" perpetrates in every small place, the Chowkedar and the headman of the village used to have him up and fine him. Half this fine was kept by the headman and half was paid to the Police ; Subsequently the punchayet system was brought into vogue and no small strife arose as to the division of this perquisite. It has, I am informed, been settled by the Police still retaining their half, but the punchayets have to be content with their share of the moiety. This often is worth having, especially in cases where a lady "comes a society cropper." Now it must not be supposed that "the presents" in these cases are taken in an unscientific or unbusiness like way by the Sub-Inspector or Head Constable who may chance to be there at the time ; far from it : The Police is a disciplined force, and the maxim of Sergeant Bucket "discipline must be maintained" is rigidly adhered to, even in the matter of perquisites. The money, therefore, that is handed over to the Police in the case of the suppression of crime is paid into a general fund at the thannah or out-post and is rateably divided amongst the reporting staff from the Literate Constable at the out-post upwards, until a height is reached where the officer is above taking his share. This latter attitude has seldom been reached by explorers, though instances are on record of its having been attained. Whenever a quarrel takes place at a thannah or out-post, the conclusion may be drawn with almost absolute certainty, that either a woman, or the division of the spoil is at the bottom of the dispute. The person who sits at the receipt of this custom is, at the thannah, the Writer Constable, and, at the out-post, the Literate Constable. These men are termed moonshis by the Police and the people. It is the duty of these officers to write all the registers, and there are two

forms in which entries are made. In the case of cognizable crime, what is termed a first information report is submitted. In non-cognizable cases, or reports of accidents or unnatural deaths, an entry is made in the station diary. The first named entry is, of course, the most important, and for entering it a fee is levied according to the circumstances of the parties, or the nature of the offence, before an entry is made. In the less important cases a fixed fee is paid. This, as far as I have been able to ascertain, is one rupee in Bengal and Orissa, but in Behar—poor Behar, backward in bribery as in all other respects,—the sum of seven and a half annas is taken, at any rate, at one thannah of which I have information. It would be interesting to trace how the half-anna came into the amount, but it must have been handed down from ancient days. Probably with the spread of education, quotations in this thannah may improve. Not an entry is made until this fee is paid, and the complainant is kept waiting until he produces it. This inconvenience is not often undergone, as the complainant is generally brought in by the Chowkidar who instructs him as to the amount with which he is to come prepared. The entry having been made, the next demand is for “kummur kols,” or unloosening the belt. That is to say, for the officers taking up the investigation. It is, at this stage, to use a vulgarism, that “the band begins to play.” To take as an example a case of dacoity. The complainant, as a rule, comes and tells the Police that his house was broken into and plundered by a gang of dacoits. Being unversed in the ways of the world of the thannah, he usually says, and truthfully says, that he did not recognize any one, and suspected no person in particular. That this statement is generally true is evident from the circumstances under which a dacoity takes place. It is generally on a dark night; the marauders come from a distant village, their faces are disguised, and the average native (if, to quote an English newspaper, I may be pardoned for using the term) is in such an abject state of terror, that he hides himself if possible, or at any rate is in such a state of nervousness, that he is perfectly incapable of thought, much less deliberate recognition of disguised men. A straightforward story however is too ridiculous to find favour with a Sub-Inspector or Head Constable. Money was never made out of the truth, and, the making of money is the purpose for which a Darogah believes himself to have been sent into the world. So the complainant is instructed to charge some person with the crime. This is a golden opportunity for the complainant to at once name a person with whom he is on bad terms. He pleases the Darogah, and gratifies his personal spite by the simple process of naming his enemy, and swearing that he recognized him. Some of these recognitions are very amusing. The general

story is that the dacoit was recognized by his voice. To any one who has listened to the dull monotonous tones in which conversation is carried on between two natives in the mofussil, the possibility of a voice being recognized in the confusion and hurry of a dacoity, is slightly incredible. As well might the thud of a particular native drum be picked out of an orchestra of these instruments. Another favourite mode of identifying the man is that he has, by chance, dropped his *lathi* or stick when running away, and that *lathi* can be easily sworn to as the property of the person on whom the charge is sought to be fastened. However, the complainant swears to the man and goes away happy. He thinks he has fixed up his enemy, and peace and contentment reigns within his breast. He little knows for what he has let himself in. The first information is written up, and a constable in plain clothes at once is started off to open the next scene in the comedy. He goes to the accused people, and tells them what has occurred, and opens negotiations with them. He tells them that if they "carry down the man a present," they will get off, and the tables be turned on the complainant. And now a merry cross rough, so to speak, is set up. The accused, also with the view to see his desire upon his enemy, readily accedes to the terms proposed, or to such modification of them as may eventually be settled, and this being satisfactorily arranged, the complainant is next forced and told that he must pay if he wishes his case to be carried to a successful issue, or rather, if he wishes to avoid a trial and imprisonment for bringing a false charge. Meanwhile, village after village is visited, and respectable people are told that they are suspected of being the receivers of the stolen property, and that if they wish to avoid having their houses searched, and the trouble and disgrace attendant thereon, they too must contribute to the Police provident fund. This they of course do, and the Police score several tricks apart from those they make by the cross rough. Finally, unless the present given by one side greatly preponderates in value over that given by the other, a report is sent up which is after all this corruption, strange to say, true, *viz.*, that the occurrence has occurred, but no clue can be found to the perpetrators. In cases where the inducement is sufficiently strong, the matter is reported true or false as the case may be. It would be tedious to go into the steps taken to secure evidence one way or another, but if such things are done in the green tree, when the mere preliminaries are being settled, it may well be imagined what things will be done in the dry, when the issues are so momentous to the parties concerned. Next to a dacoity, the police dearly love a good rioting case, especially when the riot has arisen out of a dispute between two rival zemindars. The days are gone by

now, almost as effectually as the days of the battle of the four kings against five, spoken of in the book of Genesis, when one zemindar openly arrayed his forces against his neighbour. They manage things differently now, and a dispute between two ryots is made, as it were, the test case of claims of no small magnitude. It is the old story of single combat reversed ; Then the knight went forth to fight his Lord's battle to the death ; Now, after the manner of the people, the churl is sent forth to do or die or go to jail, in the battle of *his* Lord for supremacy. Fat are the pickings in those cases, for the cause of a seemingly half-naked coolie, is but the cover for the real issue involving, it may be, lakhs of rupees. It is not generally known, but it is nevertheless the fact, that, as in England, an ordinary ejectment suit is the means whereby vast interests are decided, as in the case of the Tichborne claimant, so in Bengal a common criminal trespass is, but the keynote to a case that may go as far as the Privy Council. Every disputant is anxious vicariously to secure first blood both literally and metaphorically.

There are other means, and these, too, curious in their way, whereby the toil worn Darogah ekes out his pittance of pay, and is enabled to uphold, with becoming state and dignity, the position of Viceroy, which, as my friend told me, he occupies in the eyes of the peasant of rural Bengal. It will be scarcely believed, but it is true, that the wretched Chowkidar whose pay is some 3 Rs. a month, and as the Irish lady said "all he can make besides," contributes to the fund which tends to make life, even in the most out-of-the-way out-post, tolerable. The Chowkidar is obliged to attend the out-post or thannah once a week, to report what is going on in his villages, and generally to afford information. The trifling sum of one pice is exacted from each man, unless he would be reported as absent, and punished for his breach of duty by fine or dismissal.

All is fish that comes into the Darogah's net, be the take ever so small. A stern upholder is he of the domestic virtues also, for he orders the Chowkidar to report every case in which widows go astray. When the report comes in, down go the Police to the spot, and there the officer lectures the unhappy woman on the evil of her ways, and on the advantage of keeping straight. He throws in, incidentally, the possible chance of it being his painful duty to send the woman in for medical examination, and playfully hints at a procedure unknown to the Codes of Law, whereby it may be necessary to have her bound down by the Magistrate against attempting to do away with the evidences of her indiscretion. In a case where the woman is tolerably well-to-do, or her people are in respectable circumstances, there is much rejoicing at the thannah on the return of the investigating officer

The possibility of being able at last to accomplish the marriage of a daughter, or the purchase of a piece of land comes within measurable distance of fulfilment to some, who were inclined to be despondent until this case of vindicating the precepts of morality turned up. The partner of the lady's indiscretion has also to pay for his temporary lapse from the paths of virtue.

Even the grim King of Terrors, Death himself contributes to the income of any thannah or out-post which he visits in an abnormal way, or even when in the course of nature, he carries off some man "who has served his generation and fallen on sleep." For, whenever a body is found in a canal or river or field, although there is not the slightest suspicion of foul play, and it is quite certain that the man has died from natural causes, the Police reap a rich harvest. This they do by the simple means of telling certain persons that they are suspected of murder, and that it is to their advantage "to carry down (the man) a present." Even in ordinary deaths, when the friends of the deceased have, through carelessness or ignorance of their duties, omitted to report the matter (as they are by law required) at the thannah, they are told that there is a strong suspicion of their having hushed up a murder, and to avoid the consequences they go through the usual form, even though it may involve a visit to the money lender.

Whenever any accidental or unnatural death occurs, or where some wretched being has committed suicide, it is the duty of the Police to go and hold an inquest. This is a duty which these devoted public servants never shirk. It is an easier and less worrying job than a dacoity or a murder, for the procedure adopted is simplicity itself. The duties of the Police are to send in the body for *post mortem*, *only* in the case of doubt or suspicion attaching to the manner of death. Of this the Police are well aware, but the villagers, as a rule, are not equally conversant with the law. In most cases the Darogah's face is sickled over with the pale cast of thought. He *thinks*, but only *thinks*, just at present that the account of the death is not quite satisfactory. He seriously doubts whether his duty will not compel him to have the body sent in for *post mortem* with probably a report hostile to some body. As apart from the report, this involves the carrying in of a corpse in an advanced stage of decomposition many miles to the nearest station, and the necessity of the relatives of the deceased accompanying the unpleasant burden in the heat, it may be of an April sun, every inducement is offered to remove the doubts which the great man entertains, and thereout the provident fund sucks no small advantage. One grotesque instance of this occurred.

It was, however, before the formation of the new Police. Before, in fact, the magic influence of the blue jumper and the new form of Salaaming had leavened the lump, of iniquity of which the old force was supposed to be composed. A prostitute died of snake bite, and all her erring sisters were at once assembled by the Darogah and were told that, unless they paid 20 rupees each, they would be obliged to carry the corpse to the sudder station, a distance of 30 miles. The wretched women were terrified into complying with this demand, and although forced, in many instances, to sell their trinkets, they did so rather than be compelled, as they thought they should be, to carry a corpse, presumably high, a distance of a couple of days journey from their village. Such things are of course impossible now in a force, the pay of the lower grades of which is considerably less than that earned by a cooly after a hard day's work, and for enlistment in which a handsome bonus is often given to the Police office clerks, men who have nothing whatever to do with the outside working of the force.

It is difficult, of course, to suggest a remedy for all this, but there are one or two lines on which an attempt might be made. I give them roughly, and more as a feeler to invite the opinions of others better competent than I am to form an opinion on the matter. The first thing to be done is, I think, to abolish the low paid Head Constable and to enlist the services of a higher class of men as Inspectors and Sub-Inspectors. A higher class of men will not only require higher pay, but will also have to be given some inducement in the way of promotion. A line which suggested itself as practical I believe to others besides myself, is the enrolment of the higher grades of the Police force in the ranks of the Subordinate Executive Service, through which a Police officer, who kept himself straight, might eventually hope to attain to the rank of a Deputy Magistrate. There would be some inducement then for men above suspicion to enter the service as young men, and by straightforward work to be able to look forward to a position of an honourable grade of service. The Subordinate Executive Service is recruited to some extent from the ranks of ministerial officers and from school masters. I do not see why the superior grades of the Police service should not be included in it. Their power for good or evil is certainly much greater than that exercised by clerks and school teachers, and the inducement to attract honest men, should, to my mind, be as great as they possibly can be made. A number of men (some almost illiterate, though their number is, I admit, decreasing rapidly) are let loose on the country with powers, in the eyes of the peasantry, little short of those of life and death, yet the outside promotion to which they can look forward is to the grade of an Inspector. There have, of course, been instances of

higher grades being attained to from the ranks, but these exceptions prove the rule. On the other hand a deserving clerk or school-master, whose power is as nothing compared with that of the Police, may find himself eventually in charge of a Sub-Division of a District. It would, I suppose, be rank heresy to suggest a reversion to the Chowkidari system, but I think the question is open to discussion as to whether a Chowkidari officered by a better paid class of men, with inducements before them of subsequent promotion, would not have its advantage over the present system. The Chowkidar is at present the hands and eyes of the Police, and the intervention of the ordinary constable between him and the thannah officers seems to me to be of doubtful advantage. A thoroughly reorganized Chowkidari force under the direct control of, and paid by the Magistrate and the District Superintendent, would be cheaper than the present elaborate force, and the money thus saved might well be utilized in the payment of a class of subordinate officers whose prospects and pay would place them above temptation. I shall have a few words to say in another issue regarding the presents that are carried down in the direction of the Cutcherry.

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## THE QUARTER.

IN deference to a time-honoured custom I am writing the notice of the Quarter for this, the first number brought out under my Editorship. I intend, however, so long as I have charge of the *Review*, to make the Quarter a mere record of the principal events which have taken place, without giving any comment of my own upon them. My reasons for adopting this course are briefly these: When the *Calcutta Review* was started, Railways were unknown and newspapers were few. Mails from England came at long and uncertain intervals, and people, especially those in the Mofussil, were glad of a synopsis of the events that had taken place amongst men in the outer world. This synopsis was the more welcome, when put together by a literary man and in a readable form. Things have changed since those days, and now, every day brings the daily paper with its record of news both in England and India of the day previous to its reception. Every week brings some one or other of the leading London weeklies to every Club, if not to every bungalow in the Mofussil,—certainly to every bungalow into which the *Calcutta Review* would be likely to find its way. With this literary pabulum before him, I doubt whether the most friendly reader would feel the loss of an expression of the Editor's opinion on every conceivable topic both of Home and Foreign news. In every one of their English weeklies, readers have articles on each topic. One specialist does Ireland, another does Foreign Affairs, a third enters into the subjects of which the Home Office takes cognizance, and so on. It is therefore, to my mind, unnecessary that the Editor of this *Review*, whose name appears on the cover, and who has not even the mysterious cloak of anonymity to cover him, should be compelled to write a critique *de omnibus rebus et quibusdam aliis*. I, at any rate confess my inability to do so. On subjects on which men have special opportunities of informing themselves, they are entitled to write and to write with the authority which that special knowledge gives them. I, however, enter a protest against a man being obliged to express an opinion on the World's history for three months, because he happens to be the Editor of a *Review*, especially when that history has been discussed by specialists and read from week to week by the



people whom the reviewer of the quarter is supposed to instruct. It was, as I have said at the outset, all very well when news was scarce and a clear statement of the Quarter's news was a godsend to people who got fragmentary glimpses of what went on in the world. At the present stage of social history, I think I shall be held excused if I content myself with an account of the leading events which have taken place during the Quarter (purely for the purpose of ready reference) without inflicting on the reader a commentary on those events. Of the merits of some of these topics I am absolutely ignorant, and, of those of which I have knowledge, I prefer treating, or getting treated, in the ordinary pages of this *Review*. Acting on the principles above laid down, I will give a brief account of the leading events which have taken place during the quarter.

### *In India.*

The most important event has been the passing of the Official Secrets Act. This Act is for the purpose of preventing officials employed under Government from divulging information that may have come to their knowledge in their official capacity. To make the Act workable, the receiver of unauthorised news is punished as well as the thief. The passing of the Act created, as might be expected, a flutter in a certain section of the native press, but all journals which have the decency to be ashamed of advocating the plunder of secret news any more than they would that of any other form of property, have acquiesced in the measure, and welcomed it as a necessary check to an evil which threatened to become a serious hindrance to the work of Government.

The hasty *promise* given by the Government of Bombay to the Mumludars of that Province, who confessed to having been guilty of offering bribes in the Crawford case, necessitated a special Act being passed. This was done, carrying out as far as possible the promise rashly made, without absolutely encouraging others to follow the example of those officials who, by their own showing, were guilty of an offence under the Penal Code. Nothing but the absolute retention and eventual promotion of these men would have satisfied a certain class of the community. The making of our laws, however, is not yet in the hands of that section of the people.

The Viceroy's tour round the frontier was an event which will live in the memory of those amongst whom it was made. His happy expression that his own English title signified that he was the guardian of the Marches, conveyed better than a volume could, the significance of his tour, and will probably,

be handed down in the frontier villages long after Englishmen have forgotten that the tour was ever made.

The Ganjam Famine at last came to an end during the quarter under review, but floods in Moorshedabad and abnormal November rains have seriously injured a very bright prospect of an exceptionally good harvest. Even as it is, there was much to go and come on, and what might have been a crushing calamity in an ordinary or a bad year, has been mitigated by coming in an exceptionally good one. The quarter closes with the visit of Prince Albert Victor of Wales. The visit is more or less a private one, but the unhappy Prince cannot escape the inevitable address. He has shewn in his replies that the good sense and tact which distinguishes the Prince of Wales is not wanting in his son. Another of our petty frontier wars has been forced upon Government again this year, and the Chin-Lushai expedition has started. It is to be hoped that an effectual stop may now be put to the harrass and worry which these frontier savages perpetually cause, and that a wholesome lesson will once and for all time be read to them. Lord Lansdowne's manly and outspoken condemnation of the common but mercenary view taken of the true aims of education, by those who seek after it, is an event which is destined to have its effect on the history of education in India, if not on the history of the educated classes. Minor events in India, such as Municipal squabbles, and Government Resolutions, are they not written in the daily papers. They are not calculated to enter into the composition of the history of the country, and need not be raked up and embalmed in this notice.

#### *At Home.*

The Maybrick case died finally a natural death, and the Dock-yard strike finally came to an end since the last quarter was written. The sad death of father Damien roused a powerful feeling in England on behalf of lepers. The Prince of Wales has taken an active part in the formation of a Leper Hospital; and by so doing has more or less brought the whole question to the notice of the civilized world. An Irish carman remarked touching this: "Begorra! I always thought the Prince was a sportin,' carakther, you see, he is gettin' up an hospital for *leppers* now." His ideas were the same as those of a Sunday school girl in the same country, who, *apropos* of Naaman the Syrian, defined a leper as "a man that leps." The quarter has not been without its great disasters, notably the terrible accident in Glasgow by which many lives were lost. The Manchester Canal is rapidly approaching completion, that, and above all, the Forth Bridge stand out amongst the great engineering works of all time.

The Irish controversy still drags its length along, but the Parnell Commission has at length been closed and judgment will probably soon be given. What effect the judgment will have remains to be seen. The Irish question, however, is one that, though one rose from the dead he would not change the opinions formed in the minds of Home Ruler or Unionist. I am certainly not going to try, whilst alive, and with my own consent, I shall not rise for the purpose of entering into the controversy.

*Abroad.*

The greatest event has been the marvellous revolution in Brazil, that an Emperor in South America could have reigned for a number of years, and then be quietly shunted without any fuss, without any manifesto, and with a little money to set him up in some other business, is in itself astounding. But that all this should have occurred without a drop of blood being shed is simply marvellous. They seem to manage to revolute in Brazil without disturbing the quiet of their neighbours. The Greek marriage was one of the great events of the Quarter. It is said to point to the fulfilment of a prophecy, *viz.*, that when King Constantine and a Queen Sophia reigns at Athens, Turkey will pass again into Christian hands. The collapse of Boulanger has been the great event in France, and the various meetings of Emperors and Kings which have taken place have significance only until a *casus belli* arises. The German Emperor's marked compliments to the British Fleet are supposed to indicate a desire to include England in the Triple Alliance. The King of Portugal died after a long and useful reign. Very few people in India knew him politically, but his death was felt deeply by the large Portugese community in this country. The ruptures in Crete and Armenia have disturbed the quiet of Eastern Europe, and threaten to disturb that of the West by a revival of an atrocity crusade. Silver has risen somewhat at the close of the year. It is to be hoped that the rise will continue.

10th December 1889.

A. C. TUTE.

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## SUMMARY OF ANNUAL REPORTS.

### *General Report of the Operations of the Survey of India Department during 1887-88.*

THIS bulky and exhaustive record of last year's Survey operations informs us that they were prosecuted by 26 parties and 3 detachments. Good and useful work seems to have been done by all. Public interest will probably be most concerned with those engaged in Beloochistan, in Upper Burma, and in the Himalayan regions. In the first named *terra incognita*, military surveys have been vigorously pushed on, in spite of climate rigours. The old triangulation effected during the Afghan war of 1877-79 was, we are told, done with inferior instruments, and under considerable difficulties, "both atmospheric and political." It was clearly desirable therefore that the ground should again be gone over under more favourable conditions, that the former work should be checked and revised, and new and further necessary work undertaken, in order to secure a more reliable and sound basis for extensions of the survey that may be required in Southern Beloochistan in view of possible eventualities. Accurate knowledge there of the ground on which the game of war may be played, if played at all, and of as much of its neighbourhood is clearly imperative, if only from a strategic point of view. In Beloochistan, the Survey Department defines a good deal of this for us ; and does a good deal more. Its work in this direction, judiciously enough, has not been precisely defined ; but, as the record before us suggests, even should it be confined to the boundaries of Beloochistan only, the area to be covered extends over six degrees of latitude, and six of longitude. The special triangulation of this not insignificant bit of the world's surface has been entrusted to a party under command of Captain Longe, R. E. and Mr. T. E. M. Claudius. It is satisfactory to note that the three native soldiers attached to this party during the previous year for training, completed their course of instruction during the year under review, and were returned to their regiments recommended as having worked most satisfactorily, and become good topographers ; and it is to be hoped that opportunities will be allowed them of keeping up the scientific knowledge they have gained.

Captain Wahab, in command of another Survey party, reports thus of the locale on which it is engaged :—

“ The general elevation is the highest at which operations have yet been carried on in Baluchistan, including, as it does, the highest part of the Brahui mountain system which forms the water parting between the Indus valley and the valleys and plains of Baluchistan proper. It presents the usual physical characteristics of the Baluchistan highlands, *viz*, long level valleys, cultivated at the few spots where water is obtainable and overlooked by high rugged ranges, generally bare of vegetation, or occasionally dotted with a few straggling junipers on the highest ridges, or the wild pistachio at a lower elevation. The country is sparsely populated, and in the winter the villages are often entirely deserted, the Brahuīs who inhabit them migrating to the warmer climate of the Kachhi, the plain between the hills and the Indus. Supplies are obtainable with the greatest difficulty, and during the season under report, almost everything required by the detached parties had to be purchased at Kalāt and sent out sometimes to a distance of 50 miles. Heavy snow fell during January, February and March, and work was carried on with so much difficulty, that the average out-turn per man for those months fell from over 150 square miles to less than 50.”

That extract tells its own story, and is illustrative of the difficulties and hardships met with, to which previous reference have been made.

A map of the cantonment of Quetta, scale 16 inches to one mile, has been completed. Before very long a new one will be called for, probably owing to the rapid growth of this new frontier post.

In Upper Burma geographical and forest surveys have been actively prosecuted, and parties engaged thereon have, as a matter of fact, have had to face and meet quite as much danger and hardship as the actual fighting force. Indeed, the work to be done for the most part consisted of reconnaissance surveys in connection and co-operation with the various military movements undertaken for the pacification of the country. Major Hobday was able to extend triangulation up the valley of the Irrawaddy from Mandalay to Bhamo, at both of which places he took astronomical observations for latitude. He also, previous to the starting of the Mogaung expedition, accompanied the Deputy Commissioner, Major Adamson, from Bhamo through the upper defile of the Irrawaddy to Senbo, where he obtained additional data for basing the work to be done by the surveyors attached to that expedition. Captain Jackson, with two sub-surveyors and two native soldier surveyors of the Quarter Master General's Department accompanied the expedition, which proceeded from Fort Stedman into the Southern Shan States. A portion of the routes traversed by this column had been followed by the party that accompanied the Salween expedition in 1864-65. It is gratifying to find that the surveys then and there executed by the late Mr. F. Fedden of

the Geological Survey Department, having been tested, and are now "fully established."

With reference to the Northern Shan column, accompanied by sub-surveyor Faida Ali, we are told that a noticeable feature of the country marched over is the proximity to the Salween of the main watershed between that river and the Irrawaddy, the latter river being about 180 miles distant, whereas the Salween is only from 10 to 20 miles: a fact possibly of future importance commercially. The area of country independently mapped by sub-surveyor Faida Ali amounted to 3,425 square miles, and his work is pronounced excellent. In survey work, natives of India—when they can be induced to take to such unaccustomed, uncongenial work—usually distinguish themselves. In connection with the Northern Yaw column, a large area to the west of the Irrawaddy was reconnoitred in the Chindwin, Pakkokhu, and Minbu districts. As far as Kan, sub-surveyor Bapu Jadu accompanied the column, and mapped the course of the Myit-tha, and its junction with the Manipur river. He was not permitted to ascend the hills on the west flank of the valley, for fear of collision with the Chins inhabiting them. The survey result of the Mogaung column's operations amounts to 2,348 square miles of topography. A party from it visited the Jade Mines, but no information is given about them. In addition to these reconnaissance surveys, a special survey was undertaken of the Ruby Mine tract on the urgent requisition of the Local Government. Mr Penrose and 3 sub-surveyors were detached from the party in Lower Burma and placed under Major Hobday's superintendence for the purpose. The estimated area of 10 square miles over which these mines were supposed to extend, proved to be very much under the mark, and the survey that was required to be made covers an area of 77 square miles, of which 21 square miles has been executed on a scale of 6 inches, and 56 square miles on the scale of 2 inches to the mile: useful maps have been prepared of this tract. The area of the entire Ruby tract is now determined, and it can be readily reserved and demarcated.

The Hazara expedition was availed of to survey the western slopes of the Black Mountain. The reconnaissance and approximate triangulation of Western Nepal has been extended eastwards from the Kumaun boundary to the Gandak river in Central Nepal. The work of this season, combined with that of previous years, now furnishes data for sketch maps along the whole southern frontier of Nepal. The materials are most scanty where the Gandak and Bāgmatī rivers break through the Himalayas into the plains, and most abundant in the neighbourhood of Kumaun on the west and Sikkim on the east,

whence the observers could command a good view of the spurs of the Himalayas.

These operations were conducted by sub-surveyors Rinzin and Ramsaran who show special aptitude for the work. The results obtained are admittedly imperfect, not so much from inaccuracy of those which are given, as from the immense amount of detail necessarily omitted owing to the method by which the geographical information can only be obtained. The greater part of the work has been done by distant sketching from the tower stations of the North-East Longitudinal series of the Great Trigonometrical Survey by means of previously fixed distant peaks, a method which enables the surveyors to fix, with very fair accuracy, the prominent points of ridges and any other features which he can see and identify, but leaves him very much in the dark as to the run of the valleys and intricacies of drainage. Vague and incomplete though they must be from their nature, still they are valuable contributions to our geographical knowledge of districts which, without them, have been an absolute "terra incognita" to us.

Need we say that there is an immense amount of valuable information and suggestion contained within the covers of this Report upon which we have not touched.

Though, as we have said, a bulky volume, it is quite an *édition de luxe*, embellished with maps elucidatory of the text, and two or three admirably clear specimens of heliogravure turned out by the Department's Calcutta Office.

*Resolution of the Government of Bengal on Local Self-Government in the District Boards in Bengal during the year 1888-89.*

THIS state paper opens with a menace that the reports received from Commissioners of Divisions on the working of District Boards are not prepared in any uniform method, and in several particulars fail to convey the information required by Government, while in other respects they are overladen with details which it was unnecessary to communicate. We are told that—

The total number of the members of District Boards in Bengal in 38 districts is 785. Of this number, 433 were nominated by Government and 352 were elected by the Local Boards under the laws and rules in force. Of the total of members of the District Boards, 205 are Government servants and 580 are non-officials. Of the elected members of District Boards, 29·8 per cent. are zemindars or representatives of the landed interests, 26·4 per cent. are pleaders, 17·7 are Government servants, 2·3 are mukhtears, only 7 are traders, and the remainder are unspecified. The average number of members of each District Board is 20·6. The Magistrate of the district was, in every instance, re-appointed Chairman of the District Board on the expiry of his term of office under section 24 of the Act.

Local Boards exist at the head-quarters of sub-divisions. The number of Boards so established is 106. The total number of members is 1,201. The number of members of Local Boards in which the elective system is in force is 919, of whom 543 were nominated by Government and 376 were elected. Of the members of these Local Boards, 133 are Government servants and 776 are non-officials. Of the elected members of Local Boards 51 per cent. are zemindars, 24·4 per cent. are pleaders, 4·2 are Government servants, 3·8 are traders, 3·3 are mukhtears, and the remainder are unspecified. The average number of members of each Local Board is 11.

Naturally, the 24-Pergunnahs was the district in which the fullest attendance was attained ; but although Bhagulpore numbered 40 members, Midnapore 36 and Rungpore and Sarun 30 each, nevertheless it was found impracticable to ensure, at an ordinary Meeting of the Board, an attendance of even half the members. The Commissioners, therefore, of the above Districts, are requested to report whether the members should not be reduced.

His Honor moreover observes that in many districts the number of meetings held during the year was insufficient. This remark is applicable to all the districts of the Presidency Division, except the 24-Pergunnahs : to Howrah, Dacca, Julpigoree, Shahabad, Mozufferpore, Chumparun, Cuttack, and Noakholly. In Dinagepore, on the other hand, where 21 meetings were convened during the year, the number seems to have been excessive, and must have been harassing to some members of the Board who live at a distance from head-quarters.

Para. 10 of the Resolution shall speak for itself:—

The appointment of Union Committees is still in abeyance. The difficulties in the way of their organization, both legislative and administrative, were referred to in last year's report, and no attempt was made during the year under review to overcome them. Steps have, however, lately been taken, which will, it is hoped, result in the adoption of some definite action on the subject. What is contemplated is the establishment of the Union Fund in the hands of a Panchayet or Union Committee, which shall form part of the District Fund, and shall consist exclusively of such sums as are assigned to it by the Local Board, which is the intermediate authority between the District Board and the Union Committee ; while, at the same time, the complete subordination of Union Committees to the Local Boards shall be declared, and a power of control defined which is altogether wanting under the existing provisions of the law.

Receipts from pounds we are told, show a net decrease of Rs. 30,327 as compared with the collections of 1887-88 ; an increase of Rs. 11,762 as compared with the estimate on which Provincial adjustments with District Boards were based ; and " it is impossible to say from the accounts submitted, whether the collections of the year were actually less than those of the previous year." On the whole Sir Stuart Bayley is of opinion that the administration of pounds by District Boards is not materially worse than it was under Magisterial supervision. Receipts from ferries " show a small decrease of



Rs. 24,161. But exactly as in the case of pounds, the decrease is more fictitious than real." The item *Grants from Provincial Revenues* records a vault from Rs. 2,01,573 in 1887-88, to Rs. 6,60,349 in 1888-1889. This, again, is "another fluctuation in the accounts between the two years, which is to be attributed to late adjustment."

It is satisfactory however to find a veritable increase under the head of Public Works expenditure from Rs. 32,32,968 to Rs. 34,65,541. Credit is due to the Rungpore District Board, which spent no less than Rs. 82,875 on original works, mostly bridges, including an iron screw pile one, 247 feet long, over the Ghaghat river. The subject of village roads is held to have been insufficiently reported on by the Commissioners, nor are the statistics of the sums expended in all districts available. In the Burdwan district the allotment for village roads was only Rs. 2,000,—and, none of it was spent. Of Hooghly it is reported, that there are so many village roads that it is difficult to keep them up with the funds at the disposal of local Boards. In the Dacca Division the outlay under this head was large; and Mr. Worsley suggests that particular care should be taken that the amounts allotted are properly spent, more especially as the works are not subjected to any professional scrutiny." In Bogra the amount spent was Rs. 412; in Bhaugulpore Rs. 14,074 against an allotment of Rs. 19,040. In Malda only one road, 5½ miles in length, was repaired. From the Orissa Division "no information is furnished."

The District Boards expenditure on public works extends, in several districts, to the maintenance and improvement of water communications as well as roads. This is especially the case in the Dacca Division, and the Lieutenant Governor regrets that the Commissioner's report furnishes little information under this head. The outlay in the four districts of this division amounted to Rs. 1,94,335 on original works, and Rs. 1,00,220 on repairs, and a considerable share of this, especially in Backergunge, may be presumed to have been spent in improving the waterway of the country. It is satisfactory to notice that the attention of the District Board of the 24 Pargunnahs has been drawn to the improvement of the two important *khalls*, one from Joynagore to the Magrahat railway station, and the other from Rajarhat to Sarisha. Much has been done during the year to improve the condition of the first channel, and it is hoped that in a short time these channels may be kept open for traffic throughout the year. From the Chittagong Division it is reported that some projects of canal communication are under the consideration of the District Boards of Tipperah and Noakhally, and it is expected that action will be taken on them during the coming cold season. The Chittagong District Board derives an income of Rs. 11,578 from canal tolls. Most of the canals are farmed, and the expenditure incurred was only Rs. 194. The re-excavation of the Banskhalley canal will, however, be undertaken this year.

The Lieutenant-Governor regrets to notice that, notwithstanding a small increase in the total expenditure, in many districts the number of primary schools has decreased.

About the working of District Boards we find the Commissioner of the Patna Division writing:—

“ The District Boards are generally praised for working harmoniously. Mr. Grierson discusses the question, Whether his Board is representative or an assembly of notables. Mr. Beadon says the lawyers on his Board are extremely obstructive. I think all the criticism just, and some of it useful. Much of it is of the nature of awarding marks for merit as to school boys—for intelligent interest, regular attendance, and so forth. But it seems to me that if the members stayed at home they would do just as much good.

*Report on the External Trade of Bengal with Nepal, Tibet, Sikkim and Bhutan for the year 1888-89.*

THE total value of traffic with these undeveloped, and little cared for markets registered last year, is contrasted with the figures for the two previous years in the following table:—

Imports into Bengal.			
	1886-87.	1887-88.	1888-89.
	Rs.	Rs.	Rs.
From Nepal ... ..	1,02 77,226	1,12,34,228	93 97,491
„ Tibet and Sikkim ...	3,23,102	3,65,262	1,27,804
„ Bhutan ... ..	77,072	1,28,913	1,48,708
Total ... ..	1,06,77,400	1,17,28,403	96,74,003

Exports from Bengal.			
	1886-87.	1887-88.	1888-89.
	Rs.	Rs.	Rs.
To Nepal ... ..	52 90,285	73 51,720	74,30 836
„ Tibet and Sikkim ...	3,92,295	2,50,834	79,904
„ Bhutan ... ..	1,54,725	1,80,677	1,53,044
Total ... ..	58,37,305	77,83,231	76,63,784

so that the net result of the wretched little war lately enacted on our north-east frontier has been to spoil a trade which gave promise of advancement and increased value. Traffic with Nepal being not at all, or very slightly, affected by the war in Sikkim, the chief feature of the past year's trade was nevertheless a falling off of 16·35 per cent. and 8·56 per cent. in the imports from Nepal, as compared with the figures of the two previous years respectively, while there was an increase in the exports to that State of 1·07 per cent. and 40·46 per cent. as compared with 1887-88 and 1886-87 respectively. The total value of the trade from and to Nepal was 9·46 per cent. less than in the preceding year, but 8·09 per cent. greater than in 1886-87.

Imports of cattle, raw cotton, and tobacco; exports of rice, other grain crops, and European piece-goods, show a satisfactory

increase; though imports of grain, rice, and pulse fell off largely:—

Compared with 1887-88 the decrease in the imports of food grains into the Chumparun district was 32·92 per cent., in Mozufferpore 63·94 per cent., in Durbhanga 75·25 per cent., in Bhagulpore 65·97 per cent., in Purneah 25·38 per cent., while Darjeeling showed a slight increase of 15·43 per cent. The Collector of Chumparun makes the following remarks regarding the decrease in the grain traffic:—

“Food grains were not imported on the usual scale in consequence of the short harvest in Nepal. Crops were as bad in Nepal as in our territory, and for sometime the Durbar laid an embargo on export of such articles. When this was removed, a large quantity of Indian corn was taken to the affected tract in this district. It is considered unlikely that any of the food-grains imported from Nepal during the year ever left this district again.”

A better trade was done in hides, but not so in sheep and goat skins. The manufactured woollen goods registered at Adapore alone were worth Rs. 92,539, or 78·66 per cent. of the total exports.

Para 29 has significancies which need no interpretation from us. We quote from it:—

The information furnished by the officers of frontier districts regarding the customs duties imposed by the Nepalese Government is obscure and contradictory, and it is evident that until fuller inquiries have been made, our knowledge of this subject must be pronounced incomplete. For the purposes of the present report no attempt can be made to reconcile the apparently discrepant accounts of the Nepalese system which have been received from officers of adjacent districts. It is stated, for example, that there was no change in the rates of duty levied by the Nepalese Government on the frontier of the Purneah and Darjeeling districts. The Collector of Chumparun reports that the rates of duty which are stated to have been charged by the Nepalese authorities on traders entering Nepal during the year 1888-89, appear not to have been levied with regularity and at one uniform rate all the year round, while in many cases duty was not collected at all. It is reported from one source that the duties were discontinued altogether on the Chumparun border during the year, but this the Collector considers not to be quite correct. The Collector of Mozufferpore states that, with the exception of a duty on hides, the Nepalese authorities now levy no duties on imports and exports. The duty on hides is said to be farmed, but what rate is charged is not known. From the report of the Collector of Bhagulpore, it appears that the Nepalese authorities have, since September 1888, stopped the levying of imposts on trade. It is said that they have amalgamated the tax with the rent of holdings of the cultivators at 1½th anna per rupee. Before September last they used to charge the duty shown in the previous year's returns. The report from Durbhanga shows that duties continued to be levied as usual with certain insignificant changes.

*Report on the Administration of Criminal Justice in the Punjab and its Dependencies during the year 1888.*

IN Sir James Lyall's opinion, much of the alleged increase of crime in the Punjab, of which so much has been heard of late, is due to the rigidity of the present system of recording

crime, and the difficulty of striking off false cases after they have once been brought on the police registers. The figures regarding Kohat are not clear, and a spirit of lawlessness in Rawalpindi, Jhelum, and other less notably turbulent districts, in his judgment "can only be suppressed by firm and sustained action on the part of the District Magistrates."

It is admitted that in some parts of the province "the bulk of the peasantry have no real sympathy with the law as regards certain classes of crime." They understood Jan Larren Saheb's rough and ready methods of repression well enough, and feared and respected them. But under the new rule of the vakeel, they cherish hopes of always being able to evade the letter of the law by some chicane; and then, there are the chances and procrastinations of appeals and re-appeals. It is written:—

From the statement printed at page 15 it appears that the number of offences against property has risen most appreciably in the districts of Delhi, Ludhiana, Gujranwala, Sialkot, Rawalpindi, Bannu and Hazara; while there has been a considerable diminution in Umballa, Jullundur, Amritsar, Mooltan, Montgomery and Dehra Ghazi Khan. The worst results are shown in the Rawalpindi District, which during the year stood pre-eminent in nearly every class of crime, and while offences against property are shown as having increased by over 40 per cent., the proportion of cases brought to trial, which was 43 per cent. in 1886 and 32 per cent. in 1887, fell as low as 23 per cent. in the year under review. No doubt offences were over-reported in this district. At the same time the state of crime was very serious, and is not wholly explainable by the series of bad harvests and consequent poverty of the people.

It is recorded that the Honorary Magistrates decided considerably less cases than in 1887; but the District Magistrates more. The proportion of convictions in the Courts of Naib-Tassildars continues to be very low (27 per cent.) While the number of persons punished, 78,430, is almost the same as in 1887, 79,210, His Honor observes that the number of persons sentenced to rigorous imprisonment shows some falling off, being 17,879 against 19,131 in the previous year; while cases in which solitary confinement was awarded have fallen from 12,463 to 11,287. If the decrease indicated a decline in serious crime it would have been matter for satisfaction, but the fact that it is most noticeable in Lahore, Ferozepore, Rawalpindi and Bannu, which are among the most criminal districts of the Province, suggests the doubt that it may be due to insufficient supervision by controlling Courts.

The Registrar of the Chief Court, Punjab, reports that the sentence of whipping is now seldom awarded, and goes on to say, there can be little doubt that the punishment is suitable to more violent forms of crime, and that its extended use would have a wholesome effect on criminal statistics, in which the Lieutenant-Governor concurs, holding it regrettable that this

speedy and deterrent form of punishment should be allowed to fall into disuse.

One more quotation and we have done. Para No. 14 in Sir James Lyall's Resolution runs thus :—

The amount of fines imposed both in District and Sessions Courts shows a slight decrease as compared with 1887. The amount realized, however, shows an improvement, but the decrease in the proportion awarded as compensation is not satisfactory. The free award of compensation in cases where the loss suffered is undoubted, is not only a necessary part of the redress which injured parties are entitled to, but also acts as an incentive to them to look for redress to the Courts, instead of hushing up the offence, or making a private arrangement with the offender.

*Report on the Excise Administration of the Punjab during the year 1888-89.*

THE revenue from Excise for 1888-89 amounted to 5 per cent. in excess of that of the previous year, and that from country spirits in the years 1877-78, 1887-88, and 1888-89 was—

		1877-78.	1887-88.	1888-89
		Rs.	Rs.	R.
Still head duty	...	2,54,603	4,04,990	4,47,910
Licenses for sale	...	2,25,518	3,59,724	3,64,026
Total	...	4,80,121	7,64,714	8,11,936

The increased consumption indicated by the figures we have quoted, is largely nominal, and due in great part to the substitution of licit for illicit consumption. For instance, in 1877-78, and for some years later, Deputy Commissioners were so burdened with judicial work, civil and criminal, that few were able to pay attention to Excise management. In some districts illicit distillation prevailed extensively, and in all there is good reason to believe that much liquor was passed out of the Sadr distilleries by the licensed vendors without payment of still-head duty. In the Amritsar district an active policy in the suppression of illicit distillation has resulted in an increase of 17 per cent. in the revenue from still-head duty in the year under report, and in the Lahore district, in which illicit consumption has hitherto been rife, and in which Mr. Walker, the Commissioner of Excise remarks, some improvement has at length taken place,—the income from still-head duty in the year under report is 10 per cent. higher than in the previous year.

The difficulties experienced from smuggling of country spirits from Native States have greatly diminished during recent years, thanks to the co operation of the Punjab States in the matter. The Lieutenant-Governor is glad to notice the

loyal co-operation of these States in the Excise policy of the Punjab Government, and trusts that no efforts will be spared to maintain the improved arrangements which have been introduced in them in compliance with the requests of His Honor's predecessors.

Some 28 distilleries have come under reduction during the past year, or since its close, and 6 more will soon be abolished. The number of distilleries in the province will then be 42, as compared with 82 in 1883-84. A rule has also been issued requiring Deputy Commissioners of districts to give full opportunities for prefeimment of objections against the opening of new liquor shops, and to duly consider such objections as may be made.

The import of Malwa opium from Ajmere has again been permitted, as it was found that shutting off this source of supply encouraged smuggling from Rajputana. The gradual withdrawal of Chandu and Madak licenses is a policy which, we are told Sir James Lyall intends to pursue, and he agrees with the Commissioner of Excise that a falling off noticed in the income from hemp drugs is not to be regretted, if it means decrease of consumption ; " but it is not clear that this is the case."

*Report on Police Administration in the Punjab for the year 1888.*

THE Report before us is not cheerful reading. The returns again show a considerable increase of crime—exaggerated although it is by the existing system of record. In the Rawalpindi District violent crimes against the person, and serious offences against property, in Jhelum murders, and in Sialkot offences against property, have risen considerably. Kohat shows a serious increase in violent crimes against person and property. Bannu continues to show worse and worse results from year to year, serious offences having steadily increased under all heads.

In Jhelum there were so many changes of officers that strong control " was almost impossible." The question of strengthening the Bannu Police is under consideration. If things are as bad as they are made out to be in Bannu, the augmentation is properly matter for prompt action rather than consideration. The worst feature in the report is held to be the steady increase in burglaries, which have risen from 20,954 in 1887 to 22,074 in the year under review. The comparative failure of the Police in dealing with such cases is one of the weakest points in the criminal administration, and there are some grounds for thinking that the orders recently issued, directing the attention of Police officers to the discretion allowed under Section 157, Criminal Procedure Code, which enables them to avoid enquiry into certain cases, have been too loosely interpreted in several districts.

Cases of serious mischief, and mischief to animals, are on the increase ; and the Police working in such cases "already poor enough, show a tendency to deteriorate still further." Convictions were obtained in only 125 per cent. of the whole of the cases instituted. In communication with the Chief Court measures are now being taken for the representation of Government in criminal cases by Government pleaders. The Lieutenant-Governor is of opinion that the District Magistrates do not sufficiently realize the nature of their own responsibilities with reference to the working of the Police, although by Act V of 1861 it is distinctly placed under their *general direction and control*, and that, under the circumstance, they should insist on being informed and consulted about every measure taken by the District Superintendent of Police, which is likely to affect the criminal administration of his district, so that he may, if he sees fit, exercise the powers the law has given him.

With reference to the general complaint of the inadequate number of the Police it is noticed that the practice—repeatedly prohibited by the Chief Court—of serving processes in non-cognizable cases through the Police instead of through the ordinary process-serving agency, still continues in several districts, of which Umballa, Rohtak, Karnal, Gurdaspur may here be mentioned. This is highly irregular, and is unfair to the Police, whose time can be much better employed on their proper duties.

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*Report on the Land Revenue Administration of the Lower Provinces, for the Official year 1888-89.*

FROM a Report on the Land Revenue Administration of the Lower Provinces for the official year 1888-89, we gather that the collections were less than those of the preceding year by Rs. 6,70,823, and less than those of 1886-87 by Rs. 12,38,555, the result of the Burdwan Raj estate failing to pay up a sum of Rs. 4,31,521 due as revenue till after the close of the year, and to a short outturn of the crops in Chittagong, Pooree, Khooida, Midnapore, Contai and Tamlook. The total number of Government estates, however, have increased during the year from 3,058 to 3,307, and their rental from Rs. 22,32,370 to Rs. 23,08,688. The increase was both in the estates under direct management from 1,395 to 1,575, and of those under farming leases from 1,663 to 1,732. These figures are not explained, and it is not clear why the total should vary so largely between 1887-88 and 1888-89, whereas it only changed from 3,053 to 3,058 in the previous year.

The 1,575 Government estates under direct management have a rental of Rs. 16,08,956, whereas the 1,732 estates let out on farming leases bring in only Rs. 6,99,723, a difference which

is in no way accounted for. There were 262 private estates under direct management, and the total number of estates so treated "is said to be 1803." In Orissa, in the face of the distress "which although much exaggerated undoubtedly existed, it was not considered desirable to press the Surburakars' unduly." The miscellaneous revenue collected amounted to Rs. 1,63,232 as compared with Rs. 1,72,982 in 1887-88, and of this sum Rs. 1,17,585 represent "other receipts," *i.e.* other than fees and fines under certain Acts, the sale of Government estates, and abatements of revenue.

The results of the working of the Roads and Public Works cess are pronounced not satisfactory. With a larger demand the collections were smaller, and the outstanding balances heavier than in the previous year. The remissions were also greater. The total amount of Land Revenue, Road and Public Works and Zemindari Dak cess remitted by postal money-orders, rose from Rs. 2,07,156, sent by 47,248 orders, to Rs. 6,60,800 covered by 92,402 orders. These figures show that the value of each order rose from Rs. 4.6 to Rs. 7.2.

The Postal Money-Order system of Land Revenue remittance continues to gain in popularity and is undoubtedly a boon to the public. Only in the Cuttack district, where 3,000 cases connected with revenue-free tenures are pending, does any considerable amount of Land Registration work remain to be done. The number of partitions effected during the year was 579, just the same number got through in 1887-88.

*Report on the Administration of Civil Justice in the Punjab and its dependencies during the year 1888.*

AS compared with 1887 there has been an increase of no less than 9,798 suits instituted in Punjab Civil Courts during the year under review, an increase most marked in suits for immovable property. Some local officers attribute it, "with apparent reason," to the recent activity of the Revenue Department which has brought to light many facts that have led to litigation. It is also held possible that the unusually large number of settlements in progress may have some connection with it. Meanwhile, we learn that Honorary Civil Judges disposed of 12,697 suits during the year, an increase of more than 2,000 on the figures of 1887.

We observe that there has been a considerable falling off in the number of Small Cause Court cases disposed of by Cantonment Courts. It is explained that, under the present orders of the Government of India, *junior* Military officers are selected as Cantonment Magistrates, and have to learn their work while they are doing it at suitors' expense.



The appellate work of District Courts presented no abnormal features. Only 21 appeals were pending for more than three months. The average duration of appeals in Divisional Courts fell from 161 to 144 days. Pending files, in the Jhelum, Hoshiarpur, Jullundur, and Amritsar Divisions are still heavy, and thus prevent a satisfactory reduction in the average duration.

There was a substantial increase of work for the disposal of the Chief Court as compared with 1887. We read that at the close of the year under review, though the number of appeals from decrees disposed of was 2,213 to 1,354 in the preceding year, the pending file amounted to no less than 2,054 cases, the total number for disposal during the year being 4,268. At the same time revisional and miscellaneous applications are stated to be increasing. The Lieutenant-Governor, however, has carefully considered the statistics which have been prepared showing the state of work in the Court during the first five months of the present year, and with every allowance for the effect of the new law of appeal, he concurs in the opinion expressed in the Report, that for the proper performance of all its duties, it will be necessary to retain five Judges permanently in the Court.

*Report of the Honorary Committee for the Management of the Zoological Gardens for the year 1888-89.*

DURING the year under report, the total income of the Gardens during the period, inclusive of the Government grant of Rs. 19,504, and the opening balance amounting to Rs. 1,286, was Rs. 52,737, against Rs. 45,279 in the previous year. The expenditure incurred reached the figure of Rs. 41,458, against Rs. 43,992 in 1887-88.

2. An income of Rs. 7,050 was derived from donations and subscriptions as against Rs. 1,030 in the preceding year, this large increase being due to a munificent donation of Rs. 5,000 made by the Nawab of Moorshedabad, in addition to a donation of a similar amount made by him two years ago. The entrance receipts amounted to Rs. 9,452, against Rs. 8,294 in 1887-88, and the receipts from the other sources detailed on the margin aggregated Rs. 15,234 against Rs. 7,684 in the previous year.

The number of visitors who entered the Gardens by paying one anna was 108,301, and that of visitors entering by paying eight annas 1,252, while the number of those who visited the Gardens by paying Re. 1 was 2,020, giving a grand total of 111,573 visitors during the year 1888-89, against a grand total of 108,041 visitors in the previous year.

We are glad to find that a large number of children under eight years of age were admitted free of charge, the best

	Rs.
Rents ...	2,316
Carriage and horses ...	532
Boats and palkies ...	549
Sale of animals ...	8,615
Fête and fancy fair receipts	1,884
Miscellaneous ..	267
Total ...	15,234

*raison d'etre* for such an institution. But why draw the age line at 8?

A lying-in den has been provided for the lioness. The Committee report that the most interesting event that has ever happened in the annals of the Gardens since their foundation occurred during the year, in the birth of a young Rhinoceros.

*Review of the Management of Estates in the Court of Wards, or under the Taluqdars' Relief Act, in Oudh, for the year ending 30th September 1888.*

WHEN the Encumbered Estates Act for Ireland became law half a century ago, a dispossessed and much chagrined Irish squirearchy—living more or less at its ease on prestige, wits, post-obits, and similar remembrancers of by-gone glories—by no means approved of the new legislation that reduced them to the level of ordinary citizens, amenable to debtor and creditor accounts. Following a similar train of thought, the Talukdars of Oudh no more approve of the Relief Act that has been made law for their special case, than did these Milesians squires fifty years ago. Their story, such as it is at present, is methodically recorded in the *Review of the Management of Estates, &c., &c.*, for the year ending 30th September 1888.

We glean from a Secretariat review of last year's doings in connection with the N.-W. P. Encumbered Estates, that out of a current rental demand of Rs. 17,82,410 rupees, ninety-seven per cent., with a qualifying duodecimal fraction, were collected. That result is satisfactory enough from a business point of view, although it ought to be connoted in this regard, that collections of arrears were indifferent in Fyzabad. "Progress," however, is said to have been made in the adjustment of the involved accounts of estates situate in Kheri and Rae Bar Bareilly, where the districts residuum of balances of arrears was "large," and has been allowed to accrue. Prompt action is therefore recommended as a remedy.

The total expenditure on education amounted last year to Rs. 11,888.

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*Annual Report of the Royal Botanic Garden for the year 1888-89.*

WE welcome cordially the hundred and second annual Report on the working and adornment of the Royal Botanic Garden during the year 1888-89. The most important work which was completed during the year was the Palm-House, which we noticed in our October number: an octagon

iron structure, with a central dome, each side 85 feet in length, diameter of the whole 210 feet, and the continuation of the riverside road from Shalimar Point to the Garden

The Garden's collection of dried plants has been considerably added to during the year under review, thanks to some extent to the pacification of Upper Burma, the zeal of Mr. S. Peal in exploiting the Naga Hills from vegetables, and Mr. Talbot's endeavours in the forests of Canara. From Kew were received some Griffithian, a few Wallachian specimens, some Burmese, and a large quantity of miscellaneous and cryptogamic plants. Mr. Curtis of the Straits Settlements Forest Department contributed a set of the dipterocarps of Penang. Calcutta was indebted to Kew not only for Burmese plants, but for several valuable books and pamphlets presented by Sir Joseph Hooker and Mr. W. J. Thistleton Dyer, FRS.

Apropos of the Lloyd Botanic Garden at Darjeeling, we are told that the curator, Mr. Kennedy, has been very energetic in tree planting in the station: a work of no small importance, for Darjeeling is at present one of the barest of the Himalayan stations, and, viewed from a distance, offers a sorry contrast to its superb surroundings there being little to be seen within municipal limits, except corrugated iron sheeting and scrub jungle.

*Annual Report on the Police Administration of the Town of Calcutta and its Suburbs for the year 1888.*

**I**N his Report on the Police Administration in the Town of Calcutta and its suburbs for the year 1888, we find Mr. Lambert writing:—

Under the Police Act the increase of prosecutions was (a) for disorderly and riotous behaviour in the streets, (b) for offences against public decency (c) for obstructions caused by carts and hackney carriages. These last are far the most frequent. The number of hackney carriages is 2,318, and of registered carts 17,936. In the business centre of the northern quarter of the town, the police are in perpetual conflict with drivers and owners of bullock carts, and, notwithstanding prosecutions, complaints of obstructions are constantly made by merchants and residents. Also under this Act 2,930 persons were convicted for diving without lights and for driving on the wrong side of the road, and 666 persons for bathing in prohibited tanks and at stand posts, generally at the instance of the Municipal authorities. Out of 23,266 persons arrested under the Police Act (street offences), 22,624 were convicted. I regard this large increase in the number of arrests as a matter for regret, and I should be glad if the police could be brought less into contact with a class of persons, who only cause inconvenience, and do not commit crime. To the police themselves the duty of constantly appearing in Court as prosecutors in these cases is very irksome, and has to be undertaken during hours which would otherwise be devoted to rest; and so, when I see that, day after day, the same classes of offences are constantly occurring in the same

locality, it seems a question, whether some increased severity on the part of the Courts would not sensibly diminish these public nuisances, and thereby render police interference less necessary.

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*Report on the Administration of the Salt Department  
for the year 1888-89.*

We are glad to learn from a Report on the Administration of the Salt Department for the official year 1888-89, that the policy which had nearly snuffed it out of existence by Lord Ripon's Government, has not been allowed to prejudicially affect this source of revenue, the incidence of which is unfelt.

The results of the year under review, as compared with the previous year, show an increase of Rs. 41,46,749, or 21·8 per cent. in the receipts, and of Rs. 33,224, or 14·1 per cent. in the charges. There was an increase under all the heads of receipts except "Excise duty on salt," which shows a falling off of Rs. 60,767, or 15·8 per cent. The advance in import duty is due chiefly to the increased rate, which was raised from Rs. 2 to Rs. 2·8 per maund with effect from the 19th January 1888, in which both the ports of Calcutta and Chittagong shared. The increase in the charges is principally caused by larger refunds of Customs duty on salt.

The measures which have been taken during the year for introducing the new patent scales which have been invented by Mr. Kilby, the Superintendent of the Sulkeah Salt Golahs, for the weightment of salt from shipboard, have not been touched upon, but it is confidently expected that the adoption of these scales will result in a considerable saving to Government in the annual expenditure now incurred in weighing salt under the old system, and afford at the same time a very great convenience to shippers and others engaged in the salt trade.

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*Administration Report on the Jails of Bengal for the year 1888.*

DR Lethbridge, Mr. Larmore, and Dr. Purves successively had charge of the office of Inspector-General of Jails, Bengal, 1888. Dr. Purves took over charge in November, and is the writer of the departmental Administration Report for the whole year.

We are glad to note that a more liberal scale of diet has been introduced in Jail Hospitals. The average period of detention in jail of under-trial prisoners\* fell from 17·75 in 1887 to 16·14 in 1888. There must be a larger fall than that, however, before the figures can be pronounced satisfactory. It appears that, during the last twelve years, Rs. 2,46,235 have, on an average, been provided yearly for building new jails, and

improving old buildings, "and it now only remains to build a few more subsidiary jails to complete the substitution of permanent buildings for the thatched sheds which formerly served, in many cases, as jails." The proximity to Darjeeling of the independent States of Nepal, Bhutan, and Sikkim, has rendered it unsafe to incarcerate hillmen with long sentences there any longer; they were, therefore, transferred to the Presidency Jail where unfortunately they fell ill. It is hoped that the climate of one of the Behar Central Jails will agree with them better. Although the most marked feature of the year's sanitation was increased mortality from cholera, the death rate from dysentery and diarrhoea rose from 12.6 to 15.5. Remittent and continued fevers were also more in evidence. Effective jail sanitation is still, alas, an unsolved problem.

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*Report on the Jails of the Punjab for the year 1888.*

THE number of convicts admitted during the year, excluding transfers, was 21,451 as against 22,470 in 1887—a decrease of 1,019, but an increase, on 1886 when the admissions were only 18,674. On the other hand, the average number of convicts rose from 10,436 in 1887 to 12,024 in the year under review—an increase of 15.5 per cent; while the average daily jail population rose from 11,626 to 13,054, an increase of 12 per cent.

This great increase in the average as compared with 1887 is partly due to the number of prisoners who were discharged or whose sentences were remitted during the former year on account of the Jubilee.

Financial considerations, we learn, have hitherto prevented the Government from carrying out a scheme to provide a reformatory for juvenile offenders, but something has been done in this way, by the construction of 50 cells and a workshop, for the isolation of juvenile offenders near the Lahore Central Jail, and 50 more cells will be provided this year if funds are available.

The result of the instruction given to the convicts in the Punjab Jails is described as somewhat poor. But, with the good sense that always distinguishes him, the Lieutenant-Governor is not disposed to favour giving juvenile prisoners education other than of the simplest kind. India has already too many eleemosynary educational institutions—too many keranees, but too few artificers.

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*Report on the Cawnpore Experimental Station for the Kharif and Rabi seasons, 1888-89.*

CONTINUOUS and excessive rains in July and August ruined the Kharif crops, and spoilt experiments undertaken with a view to a comparison of the yield of different varieties of cotton. Nor was this perverse season propitious to millet and other rain crops, 17 plots of which were sown. The rabi season's experiments were chiefly restricted to wheat, the average cutturn of which per acre was 13 instead of 16 maunds. Abnormal rain in February and March ruined all prospect of achieving this. The result of model farm experiment is said to show that deep ploughing is advantageous. Nevertheless, we are apprehensive that all the model farms ever imagined will never induce Indian agriculturists to believe this. Our personal experience in Behar certainly does not lead us to belief in the efficacies of deep ploughing. Besides, deep ploughing would involve the use of a very much stronger and better breed of cattle than 99 out of 100 ryots could possibly afford to keep. Of what *practical* use then are elaborate experiments in deep ploughing? Again, we are told that wollen refuse is the best fertilizer for maize. Granted; but what is the good of tantalizing Hurry, Gope, and Shaik Ibrahim with unattainabilities? Yet, again, what is the use of experimenting with expensive scientific manures, whilst the Indian agriculturist is so miserably poor that he is obliged to use cow-dung, the Nature ordained fertilizer of his jote, as fuel?

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*Report on the Financial Results of the Income Tax Administration in the Lower Provinces for the year 1888-89.*

THE total demand for the year was Rs. 42,41,806 as compared with Rs. 38,08,762 in 1887-88, and the net revenue shows an increase of about 5 per cent. against one of about 7 per cent. in the previous year.

In every division there was an increase in the demand, except Patna and Orissa, which suffered from scarcity. The increase ranges from 17·4 per cent. in Calcutta to '03 per cent. in Durbhunga. The considerable increase in Calcutta is principally due to the re-assessment of some Marwari traders, who had been for some time past under-assessed, and to the detection of fraudulent evasions of the law, carried on with the collusion of an assessor who has been since dismissed. It is also explained that the assessment of European mercantile firms, companies, &c. has increased. In six districts the entire demand was collected within the financial year, and in ten others, before the 30th June last.

In Calcutta there has been a marked improvement, not only in the final demand of the tax, but also in the collections, which were about two lakhs and a half over those of the previous year. The decrease in the number of processes issued

also shows that the tax was realized with less friction. These results are highly creditable to Mr. Kilby, who, on the departure on furlough of Mr. G. M. Goodricke, Collector of Calcutta, was, in July 1888, placed in charge of income-tax work in Calcutta in addition to his own duties as Superintendent of the Customs Preventive Service.

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*Vaccination Charbonneuse.*

**B**ABOO N. N. Banerjee, Agricultural Officer to the Government of Bengal, has submitted a Report of his experimental and verifying work in connection with M. Pasteur's system of vaccination, and especially in connection with anthrax in India, a scourge, of the fatality of which in cavalry regiments, newspapers occasionally tell us, but as to the deadly incidence of which amongst cattle, sheep, and goats little is heard. The Baboo who has studied at Paris under M. Pasteur, is fully convinced of the efficacies of his system of prevention and cure, and has evidently done his work *con amore*. The medical profession will no doubt appreciate his eminently scientific report, and even the general reader may find in it somewhat to interest him on a subject of manifest importance. We quote the following warning :—

It must not be forgotten, however, that vaccination can only be justified where large numbers of animals are dying off. It would be most imprudent to introduce vaccine in districts where anthrax is not known to exist, or where the disease is confined only to small areas. Isolated cases do not require the introduction of such an elaborate system. If care be not taken on this score, and vaccination be introduced promiscuously, it will be found that germs of disease will be sown where they do not previously exist.

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*Report on the Financial Results of the Excise Administration  
in the Lower Provinces for the year 1888-89.*

**T**HE financial results of the working of the Excise Administration in Bengal show for 1888-89, an increase of Rs. 26,936 in receipts, and of Rs. 8,407 in charges. The population being taken at 66 millions, the total excise revenue, exclusive of the customs duty on imported liquors, was at the rate of 2 annas and 7 pies per head. Settlements for the current year show a decrease of Rs. 9,83,209 as compared with 1887-88. Mr. Westmacott is doing his best to raise the duty paid on outstill liquor; and in the Resolution now before us, it is written—

These reforms must be persisted in, although, as was anticipated, their immediate result is a considerable reduction in the excise revenue. The Lieutenant-Governor notices with satisfaction that the number and capacity of outstills have been diminished.

Nevertheless Mr. Evans, Mr. Caine, and others of that confraternity will continue to assert that Government is doing its utmost to augment revenue at the expense of its subjects demoralization by means of liquor.

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*Inland Emigration for the year 1888.*

**C**HOLERA, and cholera prevention, is the key note of Dr. Comins' *Report on Inland Emigration* for 1888. Para 7 is unpleasantly suggestive of want of proper supervision. It runs :—

In July 1888 the necessity for the disinfection of railway carriages used by coolies was brought to the notice of the Railway authorities.  
Disinfection of cooly-carrying railway carriages.

In August 1888 the insanitary state of the cooly depôts at Raneegunge having been brought to the notice of Government, an enquiry was ordered, and Dr. Gregg reported the sanitary arrangements of some 20 to 25 depôts belonging to known persons, and those of many private depôts to be very defective, and the necessity for bringing all depôts, including those for free labourers, under sanitary protection to be urgent.  
Insanitary state of cooly depôts at Raneegunge

No doubt we do more in the way of sanitation than our forefathers did, but it is as well to be reminded now and then, how much we leave undone.

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*Annual Report on the Government Cinchona Plantation and Factory in Bengal for the year 1888-89.*

**T**HIS is an exemplary Report and worthy of high commendation, for it demonstrates to the public that even an officially administered quasi commercial undertaking may be made to justify itself by the radical standard of dividend on capital invested—if only the proper officials, the right men in the right place, are entrusted with its management.

The crop harvested during the year under report was the largest ever taken ; and Dr. King and Mr. Gammie are able to show, as a result of their operations, a net profit of Rs. 27,843-15-9, in spite of adverse meteorologic changes, and in spite of the extraordinary depreciation of quinine induced by the development of cinchona cultivation in Ceylon.

Specialists and other folk interested in the subject, will find in an appendix to this report, a memorandum by Mr. C. H. Wood on the fusel oil process of manufacturing quinine.



*Report on the Legal Affairs of the Bengal Government for the year 1888-89.*

OUT of eight appeal cases before the Privy Council in 1888-89, only two were decided, the decision in both cases going against Government. As to the results of civil litigation in Bengal, the Legal Remembrancer explains that the low percentage of cases decided in favour of Government is due to the fact, that in 99 land acquisition cases, the Collector's offer was slightly varied by the Judges to whom the cases were referred, under section 15 of the Land Acquisition Act, and consequently these cases appear as decided against the Government. But "this explanation is not altogether supported by the actual facts."

By way of compensation for miscarriages elsewhere, Government was remarkably successful in the High Court, every case having been decided in its favour; not one withdrawn, compromised, or remanded.

*Report of the Archæological Survey of India. The Shargi Architecture of Jaunpur: with notes on Zafarabad, Sahet-Mahet and other places in the N.-W. Provinces and Oudh.* By A. Führer, PH.D., of the Archæological Survey, N.-W. Provinces and Oudh. With drawings and architectural descriptions by ED. W. Smith, Architectural Assistant. Edited by Jas. Burgess, LL.D, C.I.E., Director-General of the Archæological Survey of India. Calcutta—Thacker, Spink & Co. Bombay—Thacker & Co., Ltd. London—Trübner & Co. and W. H. Allen & Co. 1889.

THE work before us is a painstaking record of the outcome of much research into a very interesting archæological garret, and is worthier of perusal than any comments we can offer, as readers of the *Calcutta Review* would doubtless find if they have a *penchant* for such literature.

*Annual Report on Emigration from the Port of Calcutta to British and Foreign Colonies, 1888.*

EMIGRATION from the Port of Calcutta does not proceed at even a fractional part of the rate it ought to—Hindoo child marriages, and consequent pressure on the soil considered. We are, however, glad to observe that, as was anticipated, the demand for Indian labourers has considerably increased owing to requisitions received from the Fiji, Surma and Guadeloupe Agencies, the figures showing a decided advance from 4,625 in 1887, to 7,180 for the year under review.

*Note on the Administration of the Registration Department,  
North-Western Provinces and Oudh, for the year ending 31st  
March 1889.*

A Note on the Administration of the Registration Department N.-W. P. and Oudh for the year ending March 31st, 1889, informs us that at the commencement of the year there were 345 offices open, and at its close 347. No documents were discredited by Civil Courts; and that prosecutions instituted in connection with Registration proceedings were, in every instance, brought to light by, or by means of, Registering Officers.

*Annual Report of the Lunatic Asylums of the Punjab for the  
year 1888.*

THE Government order for the analysis of the alleged causes of insanity in the Punjab asylums has resulted in showing that Indian hemp, particularly in the form of Charas, has been the most potent one.

In no case has the disease been ascribed to the use of Madak or Chandu, and those interested in the subject may get particulars from this Report.

*Note on the Administration of the Registration Department of  
the Punjab and its Dependencies for the year 1888-89.*

IN the above Note we find that the total number of documents registered was 84,010 against 82,072 in 1887-88. The most noticeable feature in the returns is, the increase of registered mortgages by agriculturists.

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almost instinctively stop if a cow appeared on the rails, much less an approaching train. We cordially welcome our author, and hope for something further from his pen.

### *Anglo-India.*

THIS is a new weekly paper started in Calcutta. When we say that Mr. Furrell, once editor of the *Englishman*, is at the helm, we have said enough to ensure able editing. The first number certainly bears out the promise of the Prospectus which heralded the new journal. Well printed in every way, well got up, the paper presents an attractive appearance. Nor does the letter press fall short of the outward appearance of the journal. It is all that a weekly should be. The articles are well written, and there are lighter subjects for those who care for narrative and light reading. All the news of the week is reproduced in a readable form. The Editor tells us that the paper has been objected to as tending to breaking the Sabbath. He has sufficiently disposed of his objector, but, to our mind, one of the great merits of the paper is, that it comes in the Mofussil on a day when the ordinary daily paper does not arrive. We wish the new venture every success. It is a move in the right direction, to shew to the public that there is a class of the community who have rights as well as that which is always thrusting itself forward.

### ACKNOWLEDGMENTS.

- The Law of Testamentary devise as Administered in India or the Law relating to Wills in India with an Appendix.* By G. S. Henderson, M.A.  
*History of Higher Education in Southern Carolina with a Sketch of the Free School System.* By William Allen and David E. Spencer.  
*A Supplement to the Anglo-Indian Codes, 1887-88.* By Whitley Stokes, D. C. L.  
*The Fauna of British India, including Ceylon and Burma Published under the Authority of the Secretary of State for India in Council.*  
 Edited by W. T. Blanford. Fishes—Vol. II. By Francis Day, C.I.E., L.L.W., etc., Deputy Surgeon General, Madras Army (Retired).  
*A History of Civilization in Ancient India, based on Sanscrit Literature.* By Romesh Chunder Dutt.  
*Diplomatic Fly-sheets, for July and August 1889.*  
*High Vages.* Respectfully dedicated to the working men of the United Kingdom.  
*The General Clauses' Act, being Act I of 1868, with Notes and Appendices.* By Kisorilall Halda, B. L.  
*Review of the Trade of India in 1888-89.*  
*Notes on the Administration of the Registration of the N. W. Provinces and Oudh.* For the year ending 31st March 1889.  
*Accounts of the External Land Trade of British India.* For the three months April to June 1889.

*Notes on the Administration of the Stamp Department of the Punjab and its Dependencies.* For the year 1888-89.

*Report on the Administration of the Customs Department in the Bengal Presidency.* For the Official year 1888-89

*Annual Report on the Stamp Revenue Administration of the N.-W. Provinces and Oudh* For the year ending 31st March 1889

*Notes on the Administration of the Registration Department in Bengal.* For the year 1888-89.

*Accounts of the External Land Trade of British India.* For the four months April to July 1889.

*Annual Statistical Returns and brief notes on Vaccination in Bengal.* For the year 1888-89

*Trade and Navigation Accounts of British India* For the month of September 1889, and the six months, 1st April to September 1889.

*Tenth Tour of His Excellency the Right Honble Lord Connemara, G.C.I.E., Calcutta, Darjeeling, Allahabad, Simla, Quetta, Kurrachee and Bombay.*

*Return of the Railborne Trade of Bengal.* For the quarter ending the 30th June 1889.

*Report on the Railborne Traffic of Bengal* During the year 1888-89.

*Annual Statement of the Trade and Navigation of British India with Foreign Countries, and the Coasting Trade of the Several Presidencies and Provinces.* In the year ending 31st March 1889

*Report on the External Land Trade of the Punjab.* For the year 1888-89.

*Trade and Navigation Accounts of British India* For the month of October 1889, and the seven months, 1st April to 31st October 1889.

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# CRITICAL NOTICES.

## GENERAL LITERATURE.

*Report of the Commissioner of Education for the year 1886-87.*  
Washington : Government Printing Office, 1888.

BY far the greater number of those Government Resolutions we have had to deal with in the course of some years acquaintance with literature of that sort, commence with a reproof because the Reports which serve for their texts are not submitted punctually. It may, therefore, be a comfort to some of the present generation of officials who have been censured for dilatoriness to know, that they are not singular in their backslidings ; that even among the most go-ahead of countries, where the utmost despatch is held to be the proper conduct of life, official Reports are sometimes submitted to Government very late indeed in the day. One of these is now before us : the Report of the United States Commissioner of Education for 1886-87. In it credit is taken, inasmuch as its preparation occupied six months less time than its predecessors did ; which, "as a general rule of late years," are not ready for the printers until about a year and nine months after the period of the educational rise or fall of which they tell the story : much of the information necessarily becoming old, uninteresting and unprofitable. Wise in his generation was the English statesman who made it a point never to open his letters till they were a month old, by which time most of them had answered themselves. The application of the moral we leave to such of our readers as are possessed of thoughtful minds. Our present business, however, is to cull from the American blue book, matter such as may be supposed to interest them. We note, then, that seven States and Territories in the Union failed to send any returns for 1886-87 to the Bureau of Education at Washington. The Bureau is, however, full of resource, and reprints instead, the returns of the preceding year—except in the case of New Mexico, for which no full educational data have been received since 1880. Some school teacher (unnamed) protested, it appears, against being called upon to "lay down his life in

a struggle simply to perfect his statistics," and forthwith the author of the Report, who manipulates and "perfects" statistics, chides the offender, and refers him to departmental rules on the subject. 17 States, 7 Territories, and the district of Columbia have a compulsory school attendance law: 21 States and 2 Territories have none. "In many instances, however, the compulsory attendance law, if not actually a dead letter, is practically so." A little further on we are informed that the Report takes no account of the duration of school attendance, but only of the circumstance, that so many pupils *were on the school registers*. The italics are ours.

Column 2, Table 6 of the Report shows the number of school buildings in each State, "so far as reported," and, "in some cases where reports were lacking, the number of schools is given instead." It would appear that Ohio and Michigan are the States in which school libraries have received their greatest development, the former having 191 volumes, the latter 154 for every hundred students in average attendance. These school libraries, universal as they are, seem to us one of the greatest of American educational successes.

With regard to school teachers American Educational law ordains, that "any teacher's position may be occupied at one time by a man, and at another by a woman" Texas has the largest permanent school fund, "both present and prospective." Owing to defective returns, however, the Bureau of Education does not know the amount of its Texan investments, either in the present or the future. We note the following for the benefit of the Indian Forest Department:—

"In compliance with a request made by the Southern Forestry Congress, and in accordance with a beautiful custom that is prevailing in well nigh every State in the Union, I requested the schools of the State to observe the 22nd of February, George Washington's birth-day, as Arbor Day, by planting shade trees and shrubbery on their school-grounds, and dedicating them, with appropriate ceremonies, to the memory of those they love.

At a cost of 4,535 dollars, "as per voucher on file," the General Agent of Education in Alaska inspected the schools under his control in a schooner laden with lumber for school-houses, family furniture, and household supplies. At the Juneau school in Alaska, the first and second chiefs of the Auke tribe and their children, have been amongst the most regular attendants. The two Government schools at the capital of the territory are housed, we are told, in buildings that a thrifty farmer would not consider comfortable enough for his cattle. At Fort Wrangel things seem to be in even worse condition, as will be seen from the concluding part of the following extract: what precedes it is also worthy of attention:—

With regard to the intellectual capacity of the full and half-bloods, Miss McAvoy reports that while the half-bloods learn more easily, the full bloods master their

studies more thoroughly. That while the half-bloods are more nimble of brain, the full bloods have quite as much of it. And that the full bloods learn to speak better English than the half-bloods. She also reports the great interest her children have taken in the Child's Health Primer and the Hygiene for Young People.

The school has been kept in a room in the old hospital. The roof leaks, the water pours in around the windows, and the floor of the front porch has rotted away, and partly fallen in. If the school is to be kept in the same place another season, the building should be extensively repaired.

By far the largest school attendance in Alaska is reported from the Elliott F. Shephard Industrial Building—an average of 100 pupils, boys and girls. It is matter for surprise that there are not more of them, for the whole of them are fed, clothed, lodged, and taught gratis. We note that the General Agent of Education in Alaska strenuously recommends the United States Government to devote one-fourth of the annual revenue of the new territory to local educational uses. Ardent educationalists are seldom practical in their views about the uses and distribution of public money. As it is Alaskans find it no easy matter to extort the wherewithal to live from niggard arctic seas and barren arctic shores. What is to become of them if "high education" is forced on them; and as generally happens in such a case, they are rendered unfitted for horny handed acquaintance with toil. Under the burden of that infliction, the lot of many Bengalee Baboos is hard enough. But even those who fail to secure a Government appointment or a clerkship, live at any rate in a land where Nature is bountiful of good gifts, where houses are not absolute necessities, and clothes are supererogatory. Whereas the highly educated Alaskan will find no Government appointments, no clerkships for which he can become an *unmedwar*: no openings for trade even. To him Nature turns her iciest, least helpful, most obdurate side. A pitiless climate makes the shelter of a house, the wearing of warm clothes, the consumption of much food indispensable to his existence; while the fishing trade, the boat-making trade, whatever means of earning some sort of a livelihood there is on that arctic shore, he will find appropriated by the uneducated or the half educated—men very much better adapted to the situation, very much more practical and useful than he dare hope to be.

Under the heading *New Legislation* we discover that Colorado has provided for—

*Temperance Instructions.*—The nature of alcoholic drinks and narcotics, and special instructions as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the public schools of the State, and shall be studied and taught as thoroughly and in the same manner as other like required branches are in said schools by the use of text-books, designated by the Board of Directors of the respective school districts, in the hands of pupils where other branches are thus studied in said schools, and by all pupils in all said schools throughout the State.



The State of Georgia has ordained that "no teacher receiving or teaching white and colored pupils in the same school, shall be allowed any compensation at all out of the common school fund." Time has planed away the feud between Northerners and Southerners, but has not been able to surmount the difference between white and black apparently. On its own showing the Washington Bureau of Education does not get on with the Mormons any better than does the Government of the United States. Mormons decline to let their children attend gentile schools. Gentile educational authorities insist that they must submit to educational law; and they—won't. Passive resistance is sometimes efficacious. An education committee in Kansas, amongst other questions, enquired of county Superintendents, "How many school officers in your county visit their schools?" And from a careful compilation of replies to the question it would appear that out of some 8,000 of these officers, not more than 1,300 deemed it incumbent on them to discharge such a very plain duty. When asked by the aforesaid committee—"How many officers are virtually illiterate?" the gentlemen interrogated determined the average at more than one-fifth.

Kentucky's enterprise in pursuit of education is thus naively described:—

The Kentucky report of 1884-86 shows that the condition of the public schools of that State has been one of almost uninterrupted progress, and that the prospects for continued improvement are very encouraging.

The greatest drawback arises from (1) a want of interest and appreciation, which is very decidedly marked, in some counties; and (2) a lack of funds, caused in part by this want of interest, and in part by the slender resources of the people. Hence proceeds the indisposition or inability in some sections to raise local revenues to supplement the State grants, which results in turn in the continued existence of poor, even wretched school houses and the employment of underpaid teachers. 'When they [the trustees] try to employ a first-class teacher and ask the district for a tax or a subscription, they are met with the following reply from the patrons: 'I thought it was to be a free school! I paid my taxes; that is all I'm going to do. The public money pays the teacher \$20 a month; that's more than I can get working on a farm. You needn't say anything more to me. I am against the tax.' The trustee leaves in disgust; and the energetic, thorough teacher, with an ambition, is soon on his way to other more appreciative States, or to a more remunerative profession."

About the uses, and per contra, the undesirability of corporal punishment in schools, American schoolmasters and supervisors of schools hold contrary opinions. In some States rod and cane are by State law interdicted, the only permissible punishments being suspension and expulsion. The superintendent, Jersey city, N. J., considers that parents should be the responsible parties in any question of sparing the rod and spoiling the child: "no law forbids *their* use of the rod," he grimly suggests.

The American school for classical study at Athens has completed five years of the work it was set to do, and can boast

of an increase in the number of its students, and every prospect of increased usefulness. The Government of Greece is represented as taking a warm interest in the scheme. There is certainly room for much leaven of culture, sweetness, and light in the United States.

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*The Indian Church Quarterly Review*.\* Edited by the Rev. A. Saunders Dyer, M. A. The Oxford Mission Press, Calcutta.

TO the *Indian Church Quarterly Review* for October, a Missionary contributes an article on *Evolution in Christianity*. From his stand-point, he argues that God has so ordered his Church, that it is, as to its disposition in India, designedly built up from the lower social strata, and that divine wisdom is in this made conspicuously manifest on its utilitarian side, inasmuch as the lower castes are naturally more clever, have radically greater intellectual abilities than Brahmans have; and, broadly speaking, Brahmans are taken to represent the superior castes.

But I have seen, too, many cases of lower caste boys and young men excelling Brahmin boys in every department of knowledge even in a second generation of Christians, and so many cases of native Christians equalling and excelling Brahmans in collegiate education, being the third or fourth generation of Christians, not to believe that with education as general in the Christian community as it is now (and there is no reason to suppose it would ever be less) the intellectual power which has been latent from disuse for so many centuries would appear, and native Christians would hold their own, and more, in intellect.

The writer further holds that there is less trickery and deceit among the lower castes than among Brahmans. Mainly, it would seem, because the latter are not so "plucky" as are tribal robbers, chowkeydars, or pariah habitual consumers of strong drink. Strangely enough, no analogy in support of this argument is drawn from the history of the Goths and Scandinavians, their conquests and supremacies. Nor is reference made to the extermination of the red man in America by the white man with the aid of fire water. Or to the colonization of Australia and New Zealand on similar Missionary lines.

For our part we more than doubt whether there is standing room for much choice of differentiation in judgment as between the morality of men of the higher and the lower castes in India. In both cases it is traditional yard, foot and inch rule. Of "pluck" as an instinct, we take it that the higher castes have quite as much—and quite as little—as the lower, although possibly the ignorance of shere animalism may give some of the latter somewhat of an advantage on this score.

A Bengali layman, dealing with recent attacks on Missionary

work, opines that the social connection between the native Christian and the European Missionary is not an unmixed good. He points out that—

The poor Hindu who earns his five rupees a month never thinks of wearing a shirt or putting on shoes, but to the poor native Christian this is a *sine qua non* at least on Sundays when he fears he may find himself seated next to the European lady at Church. This solitary Missionary lady who attends the native Church purely out of a kind motive is the poor native Christian's evil genius. He would not hesitate sitting next to a Hindu princess without shoes or a shirt, but he would rather stay out of Church on Sundays if he could not afford to buy these articles of dress. Missionary work is, and must for a long time be, so intimately connected with European social life, that it is very difficult to avoid this unequal combination, which must be disadvantageous to the native Christian community, however useful the example of European Christian life may be to the native Christians in forming their character and habits.

He is also severe on the association of Christian and Hindu boys in schools, and believes that as a rule, the cleanest looking, most neatly dressed, most free from prejudice among Hindu boys, are morally the most corrupt, and that the Christian boy "finds these the most companionable, being to all appearance most like himself," the obvious moral of which would seem to be a revision of the canon that "cleanliness is next to godliness," and that being set free from prejudices, leads to moral corruption.

Mr. W. J. Bird contributes a very readable paper, entitled "Facts and Fancies about Bengal," and the Rev. C. Swynerton continues his pleasant reminiscences of Ceylon.

*The National Review*, September, October and November 1889.  
London: W. H. Allen & Co., 13, Waterloo Place. S. W.

TO the *National Review* for September, Mr. H. G. Keene, the never idle, always readably companionable ex-Judge of Agra, contributes an article on "The Age of Reason:" a running commentary on some of the literary aspects of the great French Revolution centenary which was being celebrated in Paris while proofs of Mr. Keene's article were passing through the press. There are other readable articles in the number, but which do not press for notice. The number for October is, however, full of thought-suggestive matter. We have an article on that novel socialist menace, "The British workman" of to-day; another on the Education of the Blind and Deaf, by the Secretary to the late Royal Commission on the subject, and on that endless Tregeagle sand rope, the Currency question. Apropos of the latter, Esther Delaforce, writing about latter day Womens' Rights, sensibly chooses to write for *jean qui rit*, not *jean qui pleure*.

In any case, and under any circumstances, the possession of a vote cannot possibly affect the relations between the sexes, and it is very

ill advised to disseminate that in wishing to monopolise or share the franchise either one sex or the other has any wish to disparage each other. Man certainly is a very underrated animal; he is able of being far superior to what he is, far nobler, far better in every way, and it is woman's fault that he is not all that he should be. All the leaning here displayed towards man, however, let it be thoroughly understood, does not apply to lower animals with human form, but simply and absolutely to the ideal perfect man, with a man's body, but a true woman's mind and heart.

Ancient woman's rights again, J. D. Hunting has a paper concerning the presently vexed question—Ought Women to Smoke? The conclusion arrived at is—On the whole, No. On grounds of health, No.; for “stimulant means, abstracted, not added force;” and narcotic poison acts by a system of assimilation. Its toxic influences are not “transitory as those of alcohol.” However women are held to blame, inasmuch as they encourage the habit of smoking in men; “like to see men smoke;” and it is from a selfish motive, that the husband who is permitted to smoke *ad lib* by his own fireside, will not want to go beyond that safe haven—to club-land or elsewhere—to indulge unproved in his pernicious habit.

It is significant of the days we live in, that Colonel Olcott gets space in the *National* for an article on the Genesis of Theosophy. In view of recent controversies on the subject of Indian Missions, we subjoin an extract worth considering:—

But granting all to be true that has been said by the Indian Bishops and Missionaries about the adverse result to their evangelizing of this spread of our ideas what is the explanation? Simply this, that we have shown the true spirit of religion; have proved the identity of Esoteric Hinduism, Zoroastrianism, and Christianity; have scientifically examined the meaning of the old Oriental myths, creeds, ceremonies and philosophies, and thus won back to the ancient cults the intellectual allegiance which had been weakened or destroyed by an exclusive contemplation of their dead letter exotericism. At the same time the Bishops and Missionaries have continued to preach bald exoteric Christianity to men cleverer than themselves in detecting sopistry and scientific unreasonableness. The bright informing soul of the Christian doctrine they have neglected to preach, and so the result they now deplore was inevitable in the natural order of things. But for the fear of being thought uncharitable, I might strengthen my case by showing how the worldly, selfish lives of any European ecclesiastics neutralize any influence they might have had upon the “heathen” by their eloquence, scholarship, or persuasiveness. A Bishop or Missionary driving about his family in a carriage, with his coachman or *sazis* in livery, and living in a fine house, with plenty of servants, is not a seductive spectacle to nations trained to connect celibacy, asceticism and poverty with the character of the religious teacher. Their Sankaras, Tookarams and Ramanujas did not play lawn tennis, but they could show men how to learn the Divine Wisdom.

In reply to Colonel Olcott's apologia for theosophy noticed above, we have a paper by Mr. Legge in the November issue,

the conclusion of which we cannot resist the temptation to extract in this place :—

It is a hundred years hence. Theosophy, like an overflowing mountain lake has broken through all limitations, and spread to the four quarters of the globe. There are no more priests, for that class, whose interests make them rebel against every work of religion, has been abolished. In their place there reigns everywhere the Theosophical Society, still hard at work upon the formation of a nucleus of a Universal Brotherhood and the investigation of the unexplained laws of Nature. And in a village of regenerate India there sits a mother, with a little child at her knee. The child's eyes widen as his mother tells him how the good Brothers went to America; how they chose out Madame Blavatsky, and how she called to herself Colonel Olcott; how these two, by command of the Brothers, founded a Society for the study of old religions; how they journeyed to India, hoping only to find peace for their studies, and how, at their approach, the withering creeds of the Old World shrank and died. "But, mother," says the eager child, as she finishes her weird recital, "Where are the good Brothers now?" "Hush! my child," the mother answers. "Our wise founders knew them, but they did not ask anyone else to believe in them."

Years pass away, and the child has become a man, a man of a sceptical and inquiring mind. He reads in the Encyclopædia of the Society a reference to Christianity as the creed which, starting from very small beginnings, spread over half the globe, only to be crushed by the young might of a newer faith; and, as he reads, he resolves to know more of this strange yet dead religion. At last he finds a book which gives him the teachings of Christianity, not the Christianity which seeks to make a man a better Christian through a society organized to oppose it, but Christianity such as we have it in England; and as he scans those doctrines, few and simple as compared with the wild and fantastic dreams of Gnostic or Theosophist, as he weighs those proofs of their truth which thousands of the best and brightest intellects of the civilised world have been content to accept as sufficient, can we wonder that he mutters to himself, "This faith is less hard to believe than Theosophy?"

It is refreshing to read Mrs. Andrew Lang's trenchant exposition of the bourgeois vulgarity of Richardson's conception of virtuous morals and manners as set out in his longwinded and much belauded novels. As to the most famous of them, *Sir Charles Grandison*—

Nowadays it is as little read as the *Faire Queene*, and people would cease to talk so glibly of 'Grandisonian manners,' if they had any idea of the gaudy wooden things they really were, but they refer to Richardson's intention of creating a perfect man rather than to his execution. Really good manners are not always thrusting themselves on the attention, and those who possess them are apt to talk less of themselves than Richardson's model gentleman, and to dislike to live in the atmosphere of flattery which was natural to him. Richardson could not understand a man living on equal terms with his fellows. He must, in some way or other, be a Sultan, as Richardson himself was to his little female court. Had he been more a man of the world, and mixed with other men, had there been more of give and take in his life, his novels, as well as himself, would have gained immeasurably.

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*Catalogue of Hindustani printed books in the Library of the British Museum.* By J. F. Blumhardt, teacher of Bengali at the University of Oxford, and of Hindustani, Hindi and Bengali at University College, London. Printed by order of the Trustees of the British Museum. London: Sold by Longmans & Co., 39, Paternoster Row; B. Quaritch, 15, Piccadilly; A. Asher & Co., 13, Bedford Street, Covent Garden, and Trubner & Co, 57, Ludgate Hill. 1889.

WE have to thank the trustees of the British Museum for a splendid catalogue of the Hindustani printed books in their library which is the work of Mr. J. F. Blumhardt, teacher of Hindustani, Hindi, and Bengali at University College, London, who has for several years past been engaged on similar work in the Museum Library. The catalogue comprises: (1) purely Hindustani Works; (2) translations of such works into English or other European languages; and (3) polyglott works, in which occur Hindustani translations, paraphrases, or commentaries on Arabic, Persian, or other originals. Dictionaries and grammars written in English for English readers, have been excluded. In his preface Mr. Blumhardt writes:—

A few remarks are necessary as to the arrangement of author' names, and more particularly of Muhammadan authors. Fortunately the same difficulty does not present itself in dealing with Muhammadan names, as is met with in the case of Hindu authors, more especially of English-speaking Bengalis, who would fain assimilate their names to the English forms of Christian and surname, by adopting the caste name, or '*upādhi*' as the latter, and making the personal name generally a compound epithet, stand for two distinct Christian names. The impossibility of adopting this system of nomenclature for cataloguing purposes has been fully dealt with in the compiler's preface to the "*Catalogue of Bengali Books*," and needs no further notice here. This unworkable expedient of Anglicizing Oriental names is happily not to be found in the case of Muhammadan authors of India. Their names usually consist of the personal name by which they are always known, to which are added the patronymic, and Nisbah, or name denoting the place of birth or residence, trade, or religious sect; as—RAHIM BEG ibn BAKIR BEG *Khairābādī* NUR AHMAD, *Chishtī*.

A Muhammadan author, therefore, if a native of India or of Persia, is entered in the Catalogue under his personal name, precisely as it occurs in the book. His patronymic and Nisbah have been added only when it has been considered necessary to do so, in order to distinguished between two or more authors of the same name, as for instance in the case of common names, such as I-mā'il, or Muhammad Husain, or whenever an author is well known by these names; as—'ABD al HAKK, *Dihlavi*. The patronymic has been printed in the same type as the author's name and the Nisbah is added in italics.

Poets invariably take a Takhallus, or poetical name, in addition to the forms noticed above, and are very frequently known by the takhallus alone, the personal name being lost sight of; the poet Muhammad Rafi', for instance, being always known as Saudā. In consequence of this it has sometimes been by no means an easy task to ascertain the real name of

a poet, when his takhallus only is mentioned in the book, and that perhaps only in an incidental manner in one of the concluding verses of the poem. This difficulty is necessarily greatly enhanced when the takhallus adopted happens to be a popular one, as Fakir.

*A Theory of Lunar Surfacing by Glaciation.* By S. E. Peal, Member of the Liverpool Astronomical Society. With Illustrations. Calcutta: Thacker, Spink and Co., London: W. Thacker & Co., 87, Newgate Street. 1889.

WELL known as an amateur publicist, Mr. S. E. Peal, of Sibsagar, Assam, comes now before the public with a theory of "lunar surfacing by glaciation," through the medium of a pamphlet published by Messrs. Thacker, Spink & Co. There are several illustrations, and they are commendably well executed.

With reference to lunar surfacing by glaciation, Mr. Peal thinks that "instead of being a hopeless enigma from pole to pole, it seems as though future students may possibly be able to read the history of each formation in turn, or even get a glimpse beneath the surface into the past. It is to be hoped so.

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*Colburn's United Service Magazine, with which is incorporated, the Army and Navy Magazine.* For September, October and November 1889. London: W. H. Allen & Co., 13, Waterloo Place, S. W.

REEFRRING to proposals that have been lately made to raise Eurasian Regiments for service in India, *Colburn's United Service Magazine* for September suggests that the best way, indeed the only way, to avoid the difficulties and jealousies that would "attend the raising of regiments of half-castes," is simply not to raise them at all. Smart writing, perhaps, but impertinent in every sense of the word—and ungentlemanly as well as offensive. The Editor would do well to make himself acquainted with the story of 1857, and of the gallant conduct and good services of the Eurasians who fought side by side with Englishmen in that death struggle. Or going further back, let him study the life story of Skinner, of Skinner's Horse, and of many other brave and "canning" Eurasian soldier.

There is an article however in the same number well worth reading, entitled "Impressions of a Visit up the East Coast of Africa." It is by Godfrey Robinson.

In the same magazine for October, Major R. H. Fraser gives a circumstantial account of "How we prevented a Suttee in 1882;" and ends it by telling us that his tale is untrue.

"Dolly and her Pensioner" is a story pathetically sad enough, but much more to our liking.

In the number for November we have a concise scholarly account of the way in which Calais and other English possessions in France were lost to the English in Queen Mary's time. A depreciatory account of General M. D. Skobelev's military career is worth reading as a side light on history. Its author is an old comrade in arms of Skobelev's—one Vasili Vassalievitch Verestchagin, whose memoir has been translated from the Russian.

*The Indian Magazine.* September 1889. Issued by the National Indian Association in aid of Social Progress and Education in India. London: Kegan Paul, Trench & Co., Bristol: J. W. Arrowsmith.

THE *Indian Magazine* for September contains a note on social reforms in Rajputana, a sketch of an English boarding school for girls, and a readable *resumé* of a pamphlet by Mr. Dadabhai Naoroji on "The Parsees and their Religion." It concludes thus:—

I think one important reason why they occupy so large a space in the mind of the world, is that influence of their religion which imposed upon them love of God love of truth, of charity in all its senses, and an earnest striving after doing some good as the mission of life, and which embraced their morality of life in pure thought, word and deed.

How does that accord with the revelations made in the Crawford case?

---

*First and Fundamental Truths, being a treatise on Metaphysics.*

By James McCosh, D.D., L. L. D., Litt. D. Ex-president of Princeton College, Author of "Method of Divine Government," "Laws of Discursive Thought," "Psychology of the Cognitive Powers," "Psychology of the Motive Powers: " "Realistic Philosophy." New York, Charles Scribner's Sons, 1889.

IN the earlier years of the present century, and for many years, Dr Thomas Cooper was President of the University of South Carolina. In that capacity he was asked to teach and preach metaphysics "having devoted much more time to that very unsatisfactory study than most men. So much so, as to be fully persuaded that it is not worth the time required to be bestowed on it." This entirely concurs with our own opinion, and we will only say, with reference to Mr. McCosh's attempt to build a temple in the air, that "if the mind does not assume and start with things, it can never reach realities by any process of reasoning or induction." Quite so, and



it is so with Mr. McCosh's book, for it grants every thing, in page upon page considers everything, and ultimately resolves for us—nothing : No “first and fundamental truths,” no new lights, nothing but disappointments, and disillusion. A philosophy of despair *may* have its uses, but we fail to discern them.

---

*Reminiscences of Behar*—By an Old Planter.

THIS is a history of the past in Behar, well told and bearing evidences of the narrator's presence at the various events it describes. Looking at Behar in the present day, with its Railways and Telegraphs, it seems difficult to realize that men should now be living who took part in the life described in this very interesting little book. Yet it is not so long ago since the railway made its first appearance in North Behar. But a few years ago Hajepore was the gate of the Northern Indigo Districts, and was the scene of many a jovial evening, either at the house of the Sub-Divisional Officer, the Opium Agent, or of one who must doubtless be known to the author of the book. For he must have visited Hajepore if he ever left Tiuhoot. The book is written in a chatty, easy tone, and to any old Behari must bring up many pleasant memories. The chase, the race meet, the Fouzdari case all find a place. In the description of the Mukhtear or attorney one can call back, say, Ram Tohul Lal with his spectacles and his stutter. We expect more from the author who must have more modern Behar at his finger's ends. The history of J. B. and his negotiations with the Khan. The “Mussafir” of now, alas, pleasant *memories* only. The many incidents connected with the Famine. They surely are not destined to be buried in silence, whilst our author can wield a pen. We look for a further instalment of these *Reminiscences*. In the meantime, however, we welcome this contribution to the social history of Behar, and strongly commend it to those who wish to know what the Province was like when “All the world was young.” It would make an admirable book for boys. Full of adventure, without yarns of an unbelievable nature, it would interest any young man coming out to this country. The times, like most of the people described, have passed away. The reviewer is old enough to remember their last days, and to look back with regret (from a social point of view) to the days when the railway whistle was unheard near Shapore Murcha, and when locomotion was carried on by means of friends' horses, oft times strange beasts to drive. There was some excitement in a journey then, as you never knew into what ditch you were going to be spilt. Even the excitement of a collision is denied one on the T. S. R. Trains go so slowly that they would

THE  
CALCUTTA REVIEW.

VOLUME LXXXVIII.

April 1889.

*No man who hath tasted learning but will confess the many ways of profiting by those who, not contented with stale receipts, are able to manage and set forth new positions to the world: and, were they but as the dust and cinders of our feet, so long as in that notion they may yet serve to polish and brighten the armoury of truth, even for that respect they were not utterly to be cast away.—MILTON.*

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# CALCUTTA REVIEW.

No. CLXXVI.

## CONTENTS.

	PAGE.
ART. I.—CAMEOS OF INDIAN DISTRICTS:—	
I.—Purneah, Bengal ... ..	237
II.—THE RELATIONS OF MISSIONARIES TO GREAT EUROPEAN AND ASIATIC GOVERN- MENTS ... ..	251
III.—SOME AGRARIAN QUESTIONS IN THE PUNJAB	266
IV.—SOCIAL IMPROVEMENTS, PAST AND FUTURE	283
V.—THE APPORTIONMENT OF COMPENSATION IN LAND ACQUISITION PROCEEDINGS ...	291
VI.—TAXATION IN INDIA :—	
Part. III.—The Stamp Revenue ... ..	305
"    IV.—Customs ... ..	320
VII.—TRIAL OF QUESTIONS OF FACT IN BRITISH INDIA ... ..	333
VIII.—THE NOVELS OF EMILE ZOLA ... ..	346
IX.—INDIAN CODIFICATION :—	
The Anglo-Indian Codes. Edited by Whitley Stokes, D. C. L., late Law Member of the Council of the Governor-General of India. Vol. II. Adjective Law. Oxford : at the Cla- rendon Press, 1888 ... ..	358
X.—MALARIAL FEVER IN BENGAL ... ..	379
XI.—THE INDIAN NATIONAL CONGRESS. ( <i>Indepen-         dent Section.</i> ) ... ..	385
XII.—THE NATIONAL CONGRESS. ( <i>Independent Section</i> )	393
XIII.—EARLY BRITISH ADMINISTRATION IN INDIA :—	
A Sketch of the Administration of the Hooghly District from 1795 to 1845. By George Toynbee, Magistrate and Collector of Hooghly ; Calcutta : Bengal Secretariat Press, 1888 ... ..	412
THE SACRIFICE OF RATH :—	
A Tale of Pachmarhi ... ..	428
THE QUARTER ... ..	432

# SUMMARY OF ANNUAL REPORTS :—

PAGE.

- 1.—Report on the External Trade of Bengal with Nepal, Tibet, Sikkim and Bhutan. For the year 1887-88 ... 445
- 2.—Twentieth Annual Report of the Sanitary Commissioner for Bengal. For the year 1887. Including brief notes on Vaccination in Bengal for the year 1887-88 ... 446
- 3.—Report on Municipal Taxation and Expenditure in the Lower Provinces of Bengal. For the year 1887-88. Calcutta : Printed at the Bengal Secretariat Press, 1888 ... 448
- 4.—General Report on Public Instruction in Bengal for 1887-88 ... 450
- 5.—Report on the Administration of the N.-W. Provinces and Oudh, for the year ending 31st March 1888 ... 455
- 6.—Report on the Administration of the Punjab and its Dependencies for 1886-87 ... 456

## CRITICAL NOTICES :—

### 1.—GENERAL LITERATURE—

- 1.—College History of India, Asiatic and European : By J. Talboys Wheeler : London, Macmillan and Co. 1888 ... i
- 2.—Fourth Annual Report of the National Association for supplying Female Medical Aid to the Women of India : January 1889. Calcutta : Printed by the Superintendent of Government Printing, India ... iv
- 3.—The Captain's Daughter. A novel. By A. C. Pooshkin. Literally translated from the Russian for the use of students. By Stuart H. Godfrey, Bombay Staff Corps. Calcutta : Thacker, Spink & Co. 1888 ... v
- 4.—The National Review. January 1889. London : W. H. Allen & Co., 13, Waterloo Place, S. W. ... vi
- 5.—An Indian Olio. By Lieut.-General E. F. Burton, of the Madras Staff Corps. Author of "Reminiscences of Sport in India," with Illustrations from Sketches by the author and by Miss C. G. M. Burton : London, Spencer, Blackett. Milton House, 35, St. Bride Street, E. C. ... ix
- 6.—The Indian Church Quarterly Review. Edited by the Rev. A. Saunders Dyer, M. A. The Oxford Mission Press, Calcutta. 1888 ... xii
- 7.—Light and Shade. By Herbert Sherring, Calcutta : Thacker, Spink & Co. 1889 ... xvii

### 2.—VERNACULAR LITERATURE.—

- 8.—Rádhámati : An original tale. Published by Śaradā Prosād Mukhopádhyaia ; Herald Printing Works ; Calcutta ... ii
- 9.—Vijnána-Babu ; a farce. By Surendra Nath Banerji ; Calcutta : Valmiki Press ; 1294 B. S. xviii

## ACKNOWLEDGMENTS

... .. xix

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# THE CALCUTTA REVIEW.

*No. 176.—APRIL, 1889.*

## ART. I.—CAMEOS OF INDIAN DISTRICTS.

### *I.—Purneah, Bengal.*

THE district of Purneah with an area of 4,956 square miles is the third largest among the regulation districts of the province, and though its population in 1881 was shown to be 1,848,667, which is fully up to the average population of Bengal districts, yet by reason of its great area, it is, with two exceptions the most thinly-populated regulation district in the province. The cause of this is not far to seek, as the district is conspicuously a grazing one, affording pasturage to the cattle of adjoining districts as well as to countless herds of its own. This circumstance exercises a marked effect on the revenue derived from cattle pounds, which amounts to nearly half a lakh of rupees annually.

This feature is not a subject for regret: much of the land devoted to pasture is probably incapable of being profitably cultivated, and it is consoling when crops fail to know that a very considerable portion of the population do not depend on agriculture, but find cattle breeding and dairy farming a profitable occupation: this goes far to account for the fact that according to the last census, nearly half of the population was non-agricultural, which at first sight seems somewhat astounding in such a very rural locality. The Hindus of Purneah outnumber the Mahomedans by some 300,000, though the latter have more pupils under instruction than the former, which, I believe, is unusual in Bengal. This is accounted for to a great extent by the preponderance of Mahomedans in the

Kissenganj Sub-division, which assimilates more to Bengal in its desire for education than does the rest of the district. The district is educationally backward and will be found figuring in the darkest shade but one in the shaded charts of the Director of Public Instruction. This shade, however, is shared by the greater part of the province and represents 10 to 25 per cent. of the population of a school-going age as actually under instruction. The district is divided for executive purposes into three Sub-divisions, Purneah, Kissenganj and Arraria, containing thirteen police stations and numerous outposts. The police force gives an average of 108 of a constable to the square mile, which inadequate as it is found to be, would be far more so but for the generally orderly and inoffensive character of the population.

The staffs administering civil justice and registration of assurances contrast remarkably with those of some Eastern districts; for, whereas Purneah has but six Moonsiffs and 4 registry offices with a population approaching two millions, the little district of Noakhally, with under a million, has as many Moonsiffs and registry offices as it has police stations; and is thus shown to be a district of the first rank in point of education and litigation. The revenue of Purneah is derived chiefly from land which contributes eleven and three quarter lakhs; nearly three lakhs are derived from excise, under which head ganjah is the most conspicuous item; stamps yield over two and a half lakhs, and income-tax another half lakh; if pound and ferry collections are added, the total revenue of the district, exclusive of local cesses, may be roughly given at eighteen and a half lakhs. The road and public works cesses and the zamindari dak cess make up a grand total of about twenty lakhs of rupees a year, which gives an incidence of a little over one rupee per head of the population, exclusive of what may be derived from the salt tax, the incidence of which it is difficult to estimate with precision.

The Municipalities of Purneah and Kissenganj collect Rs. 15,000 and 2,000 a year, respectively, for purely local purposes.

Having dealt briefly with the more salient points in the statistics which may serve as a framework to my narrative, I shall now endeavour to brighten the subject with such details as can only be derived from a residence in the district, and which, I trust, will be found not without interest, as supplying the local colour which can hardly be brought out in a mere statement of figures.

The district forms a portion of the debateable land between the province of Bengal and Behar. Though it is for administrative purposes a portion of Behar, it would puzzle any man to decide why it should not be treated as Bengal. On the confines

of Dinajpur and Maldah we find the Bengali language the mother-tongue of the people, and this is also the case to a considerable distance West of the Nágór river which forms the boundary of the two provinces. The farther West we go, the more faint become the traces of the Bengali tongue, till, in the neighbourhood of the river Kosi in Pergunnah Dharmpur, we come to a stronghold of Mithila Brahmanism where all connection with Bengal is disavowed, and the language is a dialect of Hindustani, which, however, is as different from the language of the *Bágh-o-Bakár* as it is from Bengali.

The district is doubly a border country, abutting to the North on the Nepal Terai as it does to the East on the Bengal districts. On the South again it is only separated from the aboriginal tribes of Sonthalia by the river Ganges. The effect of these circumstances is noticeable even more in the varying physique and character of the population than in the language; on the North, and especially in the Kissenganj Sub-division, the presence of hill blood is very manifest, even among the Mahomedan population, and in the Koches we have the descendants of aboriginal settlers from the North.

I am not aware that the Mahomedans of Kissengani Sub-division owe their predatory instincts, which have given them an evil reputation in the police annals of the district, to an infusion of hill blood, though that may indirectly contribute to form their character, which, while it shows the subtlety of the Bengali, has a dash of audacity which must be derived from some hardier race; but there can be no question that they derive their robust frames and fair complexions from that source. The circumstance of the Mahomedan faith having been very generally adopted has not, by any means, led to the introduction of the Purdah-nishin system. This is probably due to the free instincts of a hill people being too strong to admit of such a change; on market days the wives and daughters of farmers turn out in all their finery in a manner that would horrify the straitlaced Moslems of Eastern Bengal, where females between the ages of eight and eighty are rarely seen abroad. No one who has visited Darjeeling could fail to be struck by the strong resemblance in face and figure between the women of the northern portion of the Purneah district and their sisters in the hills. There is no attempt made to conceal their fair round faces, the head and shoulders being left bare; the sari is unknown, being replaced by a cloth which is tied tightly round the body, passing just below the arms, which are left free and uncovered, while it forms a skirt which reaches below the calf of the leg. The cloth used is locally manufactured and dyed, and the colors which are arranged in stripes are invariably in good taste and produce a pleasing



effect. The physique of this class is such that, should occasion require, I doubt not that they would be able to carry a maund on their backs, or even the traditional grand piano, nearly as well as their primitive sisters in the hills whom they so closely resemble; but happily there is no occasion for their doing so, for a more prosperous class of agriculturists does not exist in the district or perhaps in the province. The ryots hold excellent lands at moderate rates of rent, and the country is remarkably free from agrarian disturbances. The bad characters, of whom there are many, direct their operations against their neighbours, occupying themselves with burglaries, petty dacoities and cattle-lifting, a well known variety of the latter offence consisting in stealing cattle, keeping them concealed, and returning them for a consideration.\* The vicinity of the Morang, by which name the strip of lowlands at the foot of the hills is known, and which is Nepal territory, offers marked facilities for the disposal of stolen goods; and a bad character who is too hardly pressed by our police, moves into Nepal and bids defiance to the British authority, while he continues his raids in British territory.†

Though the Zamindars are moderate and liberal landlords, they are indirectly to blame for the worst feature that exists in the land system of this portion of the district, that of middlemen known as mustajirs. In one extensive zamindari through the efforts of an able European Manager, this system has been replaced by direct collections, to the profit both of the landlord and the tenant, and it is a matter of regret that the same plan is not adopted in all estates, and every effort should be made by district officers to induce the great landlords to introduce the change. Nothing can be worse for the landlord and the cultivator than the system of five yearly leases granted to mustajirs, as the mustajir offers a higher rent at each settlement, which he in turn recovers from the cultivators. The latter appear profoundly ignorant of their rights under the law, though being a prosperous class they are daily becoming more able to hold their own. The mustajir, in addition to looting the ryots to the best of his ability by enhancing rents, in which process he is materially assisted by the disinclination of the tenants to have their holdings measured, and their accepting enhancements in preference to measurement, has one or two other resources. For instance, he has a habit of taking full advantage of his temporary lease for creating

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\* [An offence specially dealt with in the Penal Code, sec. 215.—ED.]

† [And *vice versa*—see I. L. R. 6 Cal. 307. This frontier thieving and raiding led to the amendment, by sec. 9 of Act VIII of 1882, of the definition of 'stolen property' in s. 410, Penal Code.—ED.]

holdings in his own name. Land is plentiful and he maps out for himself a fine holding at a nominal rent, which holding survives his temporary lease. Then he has an amiable way of ousting his landlord by the creation of miliks or rent-free holdings by a well recognized process, which is known as converting māl or rent-paying land into milik or rent-free. The mustajir being generally selected by the landlord from among the most clever and influential men, or briefly, a man whom the other tenants fear, is specially qualified not only to coerce his neighbours into paying rent, but also to turn the tables on his employer, and use his authority to make the tenants of his master acknowledge the mustajir as their landlord by right of an imaginary milik, or rent-free holding which he invents, and the rents of which he collects as milikdar. This milik remains in his possession for ever : a few civil suits, often collusively carried out between the Mustajir as milikdar and the ryots whose lands he is transferring rent free to himself, provide the unjust steward with documentary evidence of title which it is difficult for the Zamindar subsequently to upset. By this means many men of humble origin and little or no education have succeeded in creating for themselves very comfortable little properties.

In addition to the above the mustajirs who, as I have said, are generally free from the restraints of education and the self respect due to an inherited good position, are believed to occasionally assist criminals in escaping from the law, and of course, they often participate in the proceeds of crime.

Among other causes which have done, and are still doing much to improve the position of the tenant, is the introduction of jute which is largely grown in these parts, and is an extremely profitable crop. The tenants find an easy market for their crops some of which, especially the jute, are carried away by boat down the Mahananda river into the Ganges. It is hoped and expected that the railway which is under construction between Dinajpur and Katihār, and which will connect the Northern Bengal and the Assam Behar railways, will tap the boat traffic of the Mahananda at the riverside station of Barsoe ; and this will doubtless further stimulate trade and agriculture. Some produce of the North East of the district already finds its way by road to the Northern Bengal railway at Haldibari station. Another outlet for the produce of the whole Eastern side of the district is the Ganges and Darjeeling road. This road, which is over one hundred miles in length, is metalled throughout, and possesses interest on more than one ground. First it is remarkable as forming what must be one of the finest avenues in the world, from Cārhāgolā

on the Ganges to Silligoori, a distance of about 120 miles. It is overshadowed by magnificent trees with scarcely an interval throughout, save when the broad waters of the Mahananda form a break in the communication, and in a few places where trees cannot be induced to grow. I think that even the opponents of the Hill Exodus might abate some of their animus if they would try a drive on this road; for had it not been that it was found expedient to remove the Government to Darjeeling every year, this thing of beauty would never have existed. The traditions attaching to the route are not without interest; the poor little underfed and over driven tattoos are no more, the ramshackle shigrams—as the species of ticca gharis that the tattoos had to drag were called—have disappeared; the skeletons of the latter, I believe, still haunt the neighbourhood of the Purneah Dâk bangalow. The various rest-houses on the road must have been occupied by the men who for generations guided the destinies of the province. How many sick women and children must have fled from death along this goodly avenue, possibly thinking it far too long, and failing to appreciate its beauties as they deserve to be appreciated! But we, who have leisure to admire it in the course of our residence in Purneah, are proud of it, and feel a sense of gratitude to the spirit of the Hill Exodus. There is one other thing of beauty to be enjoyed in this district which the above road calls to mind, namely, the distant view of the eternal snows. From the Sadar station, and also far more so from the Northern part of the district, the panorama is exceedingly fine, and though of course in some ways inferior to the views obtained at Darjeeling, exceeds them in the breadth of the range that is visible. Nor does the view lose so much as would be supposed in grandeur by reason of the distance; indeed, though the mountains are seen on a smaller scale, the idea of height seems enhanced by the distance. Travelling down the main artery, namely, the Ganges-Darjeeling road, we come to a very different country from that which we leave behind in Kissenganj: cultivation becomes rarer, and there are great stretches of waste land, partly due to bad soil and to the liability of the South to inundation by the Ganges and Koosi, partly to paucity of population. The people, too, are different and far less prosperous, though they too enjoy extremely low rents; but the land is less fertile, and the people themselves are less go-ahead and enterprising. Consisting as they do largely of very low caste Hindus and aboriginal races who have crossed over from Chota Nagpur and the Sonthal Pergunnahs, these people are not good agriculturists, and are almost without capital. The indigo interest, which has almost died out in the North of the district, still flourishes in the South and West, and it is probably

largely due to the indigo factories that so many Chota' Nagpur families have settled in the South. The work of the factories is chiefly carried on by Dhangars whose ancestors originally came from South of the Ganges, though at present a large resident population of these races has sprung up, and it is no longer necessary to import them. The Southern part of the district is remarkably quiet and orderly and compares very favorably, from a police point of view, with the Kissengarj Subdivision.

Indigo has for generations past played an important part in the history of Purneah and, so far as I am aware, the circumstances of this industry in this district differ from those of any other district in Bengal. I can remember the time when the cultivation of indigo in the Patna division was condemned by some ardent reformers as unjust to the cultivator. I have been so long separated from that part of the country that I do not know whether these charges are still made, but I can confidently say that such a charge could not be made against the indigo industry in Purneah. On the contrary, so far as I can learn, indigo cultivation is extremely popular with the cultivators, and during the past three years I have not heard a single complaint against any of the old established factories of the district. Experience has shown that the ordinarily patient, law-abiding cultivator of Purneah can turn on occasion, but neither by lawless violence nor by a resort to the courts have I ever found the indigo cultivator of Purneah set himself in opposition to the old planting families of the district. This I attribute to various causes, among which may be mentioned the kindly and patriarchal relations that are maintained between these old Purneah planter families and the ryots. Such planters are, I believe, the ryots' best friends; they assist him in his difficulties with advice and money, and are deservedly looked up to and respected for their fair dealing and kindness. Added to this, the system itself is a sound one, and no coercion is necessary, as it pays the ryot to grow plant to sell to the factory in whose dihat his lands lie. Most of the indigo plant produced for manufacture is grown by ryots on their own lands, the plant being delivered at the factory and paid for after being measured by means of a chain. That the rates paid are remunerative is shown by the circumstance that a ryot very often plants a great deal more land with indigo than he has covenanted to do. He receives an advance of two rupees a bigah for perhaps 10 bigahs, and of his own accord sows 20 or more bigahs, which seems to prove that, in these instances at least, the ryots derive more profit from disposing of an indigo crop to the planter than from raising any other produce. The only fact

on the Ganges to Silligoori, a distance of about 120 miles. It is overshadowed by magnificent trees with scarcely an interval throughout, save when the broad waters of the Mahananda form a break in the communication, and in a few places where trees cannot be induced to grow. I think that even the opponents of the Hill Exodus might abate some of their animus if they would try a drive on this road; for had it not been that it was found expedient to remove the Government to Darjeeling every year, this thing of beauty would never have existed. The traditions attaching to the route are not without interest; the poor little underfed and over driven tattoos are no more, the ramshackle shigrams—as the species of ticca gharis that the tattoos had to drag were called—have disappeared; the skeletons of the latter, I believe, still haunt the neighbourhood of the Purneah Dāk bangalow. The various rest-houses on the road must have been occupied by the men who for generations guided the destinies of the province. How many sick women and children must have fled from death along this goodly avenue, possibly thinking it far too long, and failing to appreciate its beauties as they deserve to be appreciated! But we, who have leisure to admire it in the course of our residence in Purneah, are proud of it, and feel a sense of gratitude to the spirit of the Hill Exodus. There is one other thing of beauty to be enjoyed in this district which the above road calls to mind, namely, the distant view of the eternal snows. From the Sadar station, and also far more so from the Northern part of the district, the panorama is exceedingly fine, and though of course in some ways inferior to the views obtained at Darjeeling, exceeds them in the breadth of the range that is visible. Nor does the view lose so much as would be supposed in grandeur by reason of the distance; indeed, though the mountains are seen on a smaller scale, the idea of height seems enhanced by the distance. Travelling down the main artery, namely, the Ganges-Darjeeling road, we come to a very different country from that which we leave behind in Kissenganj: cultivation becomes rarer, and there are great stretches of waste land, partly due to bad soil and to the liability of the South to inundation by the Ganges and Koosi, partly to paucity of population. The people, too, are different and far less prosperous, though they too enjoy extremely low rents; but the land is less fertile, and the people themselves are less go-ahead and enterprising. Consisting as they do largely of very low caste Hindus and aboriginal races who have crossed over from Chota Nagpur and the Sonthal Pergunnahs, these people are not good agriculturists, and are almost without capital. The indigo interest, which has almost died out in the North of the district, still flourishes in the South and West, and it is probably

largely due to the indigo factories that so many Chota Nagpur families have settled in the South. The work of the factories is chiefly carried on by Dhangars whose ancestors originally came from South of the Ganges, though at present a large resident population of these races has sprung up, and it is no longer necessary to import them. The Southern part of the district is remarkably quiet and orderly and compares very favorably, from a police point of view, with the Kissengarj Subdivision.

Indigo has for generations past played an important part in the history of Purneah and, so far as I am aware, the circumstances of this industry in this district differ from those of any other district in Bengal. I can remember the time when the cultivation of indigo in the Patna division was condemned by some ardent reformers as unjust to the cultivator. I have been so long separated from that part of the country that I do not know whether these charges are still made, but I can confidently say that such a charge could not be made against the indigo industry in Purneah. On the contrary, so far as I can learn, indigo cultivation is extremely popular with the cultivators, and during the past three years I have not heard a single complaint against any of the old established factories of the district. Experience has shown that the ordinarily patient, law-abiding cultivator of Purneah can turn on occasion, but neither by lawless violence nor by a resort to the courts have I ever found the indigo cultivator of Purneah set himself in opposition to the old planting families of the district. This I attribute to various causes, among which may be mentioned the kindly and patriarchal relations that are maintained between these old Purneah planter families and the ryots. Such planters are, I believe, the ryots' best friends; they assist him in his difficulties with advice and money, and are deservedly looked up to and respected for their fair dealing and kindness. Added to this, the system itself is a sound one, and no coercion is necessary, as it pays the ryot to grow plant to sell to the factory in whose dihat his lands lie. Most of the indigo plant produced for manufacture is grown by ryots on their own lands, the plant being delivered at the factory and paid for after being measured by means of a chain. That the rates paid are remunerative is shown by the circumstance that a ryot very often plants a great deal more land with indigo than he has covenanted to do. He receives an advance of two rupees a bigah for perhaps 10 bigahs, and of his own accord sows 20 or more bigahs, which seems to prove that, in these instances at least, the ryots derive more profit from disposing of an indigo crop to the planter than from raising any other produce. The only fact

that differentiates the system from a theoretically perfect one, is that the *dihât* system exists, and that each planter enjoys a monopoly of the right of contract for supplying indigo within certain well recognized boundaries, which boundaries are generally faithfully observed. A ryot who raises indigo must deliver it to the planter within whose *dihât* or monopoly-area he holds his land, but against this it may be said that the planters are at perfect liberty to enter into any agreement for their common benefit, and no ryot is in any way forced to cultivate indigo ; while those who elect to do so, enter into a regular agreement with the planter and accept an advance from him.

The monopoly, if monopoly it can be called, rests on the good faith of the planters among themselves ; it is not that a ryot cannot sell his indigo or demand an advance from a planter other than the one in whose *dihât* his land lies. but that no other planters would buy his produce or give him an advance ; so that if the system is not theoretically quite perfect, in practice it works well. Such disputes in connection with indigo as have arisen within my experience have chiefly been due to misunderstandings between planters and landholders.

In recent years no great fortunes have been made in indigo in this district, which may be attributed to the factories being on a smaller scale than those of the Patna division, many of them only producing 300 or 400 maunds of dye. The only exception to this rule being the Gondwara concern which, in the present year, produced 3,500 maunds in an unusually favourable season.

Machinery has replaced manual labor in nearly every factory in the district, and two Purneah planters claim to have introduced valuable improvements in the process of mauu-facture. The patent boilers and lever presses of Mr. F. Shillingford of Kholasi are well known, and Mr. Hill, an Assistant in the Gondwara concern, is the originator of the idea of bruising the plant before steeping ; it is even alleged that the first wheel-beater ever erected was used in this district at the Dilowri factory by the late Mr. Cruise in the year 1844. It cannot be said, therefore, that the Purneah planter has not kept pace with the times.

Indigo seems inseparably connected with sport, and time was when Purneah was famous for its tiger shooting. That this is no longer the case is not due by any means to a falling off in the sportsmanlike ardour of the planter, but rather to the fact that in past times they fired too straight, and that very few tigers are left to shoot in the South of the district. Comparatively young men have contributed largely to this extermination, and the name of Shillingford is still borne by some

of the first sportsmen of Bengal. A visit to the hospitable Kholasi factory where some hundred or so tiger's skulls may be seen, will satisfy any one of the claims of this family to the highest rank among tiger-slayers. Of other kinds of sport there is no lack. Deer are still plentiful in the great waste grass lands, wild buffaloes are to be had in the Kosi *deurah*, and wild pigs abound in many parts of the district; of birds, floricane are not uncommon, and duck, snipe, and partridge are abundant.

The physical formation of Purneah is such that it can face periods of scarcity with greater confidence than more wealthy districts; though it may be described as generally level throughout, boasting of one hill about 250 feet high, this level is really diversified by old river beds and other depressions, which are so numerous as to be classified as lowlands, as distinguished from the somewhat higher lands around. In years of drought these lands may be relied on for a crop, and though they suffer in years of heavy rain, as they form catchment basins, in such years the highlands bear a good crop, so that whether there be too much rain or too little, some portion of the lands bears produce. I believe that the Purneah ryot is always prepared for the loss of more or less of his highland or lowlands rice, and to say that in a year he has not reaped a 16 anna crop is misleading, if 16 annas applies to the area actually sown. So far as my experience goes, he is prepared to lose at least 4 annas of his sowings, and a good crop on 12 annas of the area sown would represent a bumper crop. In the South the rivers rise in August or September, and inundations often destroy what the rain has spared. These inundations materially affect the indigo interest, the object of the planters being to manufacture before the rivers rise. As the crop that is reached by the inundation perishes, the planter, like the ryot, prays for a late rise of the rivers. As another safeguard against famine may be mentioned the fact, that the rice crop is by no means the only support of the people; in the West of the district wheat, oats and barley are extensively raised, and the cold weather sees besides these a large area under pulses, and oil seeds. The ryot here has many strings to his bow, and it must be a very unusual year when he cannot make a fair profit out of his land. The condition of the landless poor is not so good; wages are low, and even in ordinary years they pass through periods when work is slack, and feel the pinch of poverty. When prices rise, the evil is necessarily aggravated, and it is with regard to this class only that a season of scarcity and high prices might justify some anxiety. But there is this to be said with regard to the poorest classes of this district, that they never emigrate, and that they



are very seldom seen on the railway works now in progress, which shows that whatever privations they may suffer, they prefer to bear them rather than resort to either of these remedies.

Another well defined area, differing from the rest of the district in every way lies on the West along the river Kosi. Here the Mithila Bráhmaṇ is a conspicuous person, with his quaint *pagri* of which a fold projects in front in a fashion which I think is peculiar to him. He generally answers to the name of Jhá and values himself very highly; he is a very strict Hindu, and altogether strikes one as a member of a distinct and singular race. He possesses little affinity with the Missers or Tewaris of the Patna division on the one hand, and none with the Bengali Bráhmans on the other, with the exception that he makes use of a character in writing which is nearly identical with the Bengali. For the rest he appears well able to hold his own, and has always been dealt with indulgently by his landlord, and enjoys considerable prosperity.

The Western portion of the district which borders on North Bhagulpur is chiefly in Pergunnah Dharmpur which is the the property of the Maharaja of Darbhanga. It is said to have been very heavily assessed with Government revenue at the time of the Permanent Settlement, and it is certain that for a number of years the Maharaja had to remit money from Darbhanga to meet the Government revenue of his Purneah property; though under the present system of management this has been avoided. Dharmpur claims to be the cradle of the House of Darbhanga, but whether the claim is acknowledged, I am unable to say. Physically this portion is divided between the wheat land of the dearahs (riparian tracts) and extensive grass wastes which form a most valuable grazing ground not only for the cultivators there residing, but for the graziers of this and adjoining districts. Resident ryots apparently have enjoyed free grazing from time immemorial for all their cattle excepting buffaloes. Some three years ago an attempt to levy grazing fees from the cattle of other than local ryots led to a serious disturbance, and the local men took up the matter as a religious question, claiming immunity for the cow not on their own account only, for this they already enjoyed, but for all cows as such. The river Kosi which forms the Western boundary of the district, carries much of the produce down to the Ganges. It is, however, a dangerous river for boat traffic, and it is to be regretted that no better mode of transport exists. It is also an excessively mischievous river, being much addicted to changing its course, and whenever it does so, it leaves a sandy bed behind which does not admit of cultivation, and the new bed is of course so much lost to the cultivable area of the district. The overflow

of other rivers is fertilizing, but that of the Kosi is destructive, as it leaves a deposit of sand which renders the land more or less sterile. I think it possible that at the time of the Permanent Settlement, when the revenue which is now found to weigh so heavily on Pergunnah Dharmpur was assessed, the Kosi had not done the amount of mischief that it has done since, and that the pergunnah was a more valuable property then than it is now. The Behar and Assam Railway which is designed to facilitate emigration from the overpopulated districts of Behar to under-populated Assam, has to cross this river at the extreme North-West corner of the district at a place called Nāthpūr. The difficulties to be encountered are likely to be considerable, as miles of sand with streams intervening at intervals have to be passed before the main stream is reached, and the whole of this sandy waste goes under water in the rains: the difficulty, I understand, will be met by the construction of a temporary line over the dry river bed, which will be taken up before the river rises, while a steam ferry will ply across the main stream. The advantage of this line to emigrants from Behar will be enormous, as, instead of travelling by a roundabout route as at present, they will reach their destination by means of a direct railway through Purneah, Dinagepur, and Rangpur.

A remarkable circumstance about Purneah is the entire absence of emigration and immigration. The former may, I think, be attributed to the general prosperity that prevails; but why people seeking fresh homes should travel so far as Assam whilst Purneah itself is in many parts thinly populated, requires explanation. The only reason that I have ever heard assigned is, that the up-country man has a peculiar dread of the climate of Purneah, which is summed up in one of their proverbs: "Na zahar kháo na máhur kháo, marna hai to Purneah jáo."\* The climate certainly has a very bad name among natives, and especially among Bengalis; but the European enjoys comparative immunity from fever; he does not escape, it is true, but his lot cannot be compared with that of the natives. Of the suffering of the agricultural classes we know little but what we can gather from the somewhat imperfect mortuary statistics, but I do not think I overstate the case when I say, that the educated native subordinates suffer so much at a certain season, that the office machinery is generally working half-power for about three months in the year. Absence on sick leave has to be freely granted, and casual leave cannot be restricted to fifteen days.

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\* Nor venom take nor poison, No !  
If you would die, to Purneah go.

The civil station of Purneah itself is remarkable for four Christian burial grounds, the Roman and English Churches having two apiece. Two are in the former civil lines, and two in the present station ; there are, however, no monuments of conspicuous interest. The site of the old civil station was found unhealthy, and so it was transferred to its present position, which, however, is not remarkable for its salubrity. There is no building of any interest in the new station, and it is distinguished, above all civil stations I have ever seen, for its straggling proportions. The builders of the station had quite a passion for elbow-room, and it is almost necessary to lay dâks when you go out calling. One house drifted quite out of the station in order, I believe, to escape Municipal taxation, but the Municipality opened its generous arms wide and took the wanderer back within its enlarged boundaries.

A few of the interesting spots in the district deserve mention. Close to Monihari, the Southern terminus of the Behar-Assam Railway, stands our only hill ; it consists of an inferior kind of limestone which is not good enough to be used for building purposes, but makes excellent metal for roads. It would appear that formerly some Hindu temple existed on or near this hill, as some very beautifully carved slabs of a black stone have been found near it. At present the summit is occupied by what appears to be a Mahommedan grave, but the superstructure is rapidly falling to decay, and if the quarrying continues, the repose of the deceased saint will, I fear, be disturbed. Old carvings are very rare in this district ; with the exception of those found at Manihari, the only one worthy of notice was found by me at Khagra near Kisenganj, whence, as it appeared to be unappreciated, I removed it to headquarters and deposited it near my office. Possibly the pious Brahman who found it there thought a miracle had been performed by the sudden appearance of this deity ; at any rate he was not slow to profit by the occasion, for he propped him up with a hamboo, and made him a garland of marigold, and ornamented him with vermilion, and then demanded a fee of every successful party to a case in the Criminal Courts. This god, whom I cannot get identified, has lost four arms and a nose, but the carving is extremely good, especially in the details, and is quite a work of art.

Near Manihari is the village Baldiabari which was the scene in 1756-57 of a great battle between the infamous Sirajuddowlah of Black Hole notoriety and Shaukat Jang, Nawab of Purneah for no less a stake than the Soubahdari of Bengal, in which the latter was completely defeated.

The town of Kusba, six miles north of Purneah, is the centre of the grain trade of the district, and affords a striking instance

of the conservative character of the Indian trader. The reason for the place being originally selected as a grain depot and market, was obviously the same that determines such matters throughout India and the world, namely facilities of transport to and from the market. These, in the case of Kasba, were formerly afforded by a river, but this river has long since silted up, and yet trade never left the place, though other sites affording the requisite facilities might have been readily found. Providence has now rewarded the constancy of the merchants of Kasba to their old town, by sending them the Assam-Bihar Railway, which supplies the facilities which this important market has so long been devoid of.

In the neighbourhood of Kissenganj subdivisional headquarters is the suburb of Khajra, which is the seat of Syed Ata Hussein, on whom the title of Nawab was recently conferred by the Government. This gentleman is possessed of a pedigree worthy of a Welshman, which shows he is the descendant of a Persian follower of the Moghul Emperor. There can be no doubt that the large Surjyapur property has remained in this family for over three centuries, and that the ancestors of the Nawab held high office under the Moghul Government, is established by original sanads which possess great antiquarian value. The family finds mention in the *Sair ul-Mutákharrin*, and there can be little doubt as to its antiquity. The Nawab has compiled a history of his family from an ancient manuscript in his possession, the language of which is exceedingly quaint. It relates how Rajah Syed Khan, third in descent from the founder of the family, Syed Khan Dastúr, on receiving his death blow from an assassin, "Gazab nák hokar usí hálat men jo ek tamán-chá us shagí ki munh par mára sadama se uske wah nutafa be waqt dákhil Jahanam hua" (being enraged, in his wounded condition, gave such a slap in the face to the villain, that that untimely spawn was by his blow consigned to hell) The Persian idiom, however, is more racy than I can show by translation. Syed Raja Khan was evidently a powerful man, and his descendant is strong in loyalty and benevolence.

The curious old fort of Jelálghar, which is only 13 miles north of Purneah, is said to have been built by an ancestor of the Nawab, Jalaluddin, the second in descent from Syed Khan Dastúr, and there can be little doubt that this fort was one of the boundary strongholds of the Mahomedan power against the hill tribes, with whom a constant border warfare seems to have been carried on. It is noticeable that this fort is a long way South of the present boundary of the district, and this shows that the Mahomedan occupation must have been gradual. Purneah at one time boasted of a Nawab who held sanads direct from the Moghul, the last of these rulers was Nawab

Mahomed Ali Khan, who was succeeded in authority by a servant of the East India Company, Mr. Superintendent Ducarrel. The family at present bears no title, and the property belongs to Bibi Kamarunessa who is one of several Ranis by courtesy in this district. The estate on the death of this lady's husband, Syed Reza Ali Khan Bahadur, has come under the Court of Wards. The history of the late Syed Reza Ali is not without romance. It is reported that he came to this district from Mozuffernagar in the North-West Provinces in an impecunious state and accepted service under his future wife's father. The young lady was pleased with his manly North-Western exterior and conferred on him her heart and hand, and, what perhaps was more important, an income of two lakhs of rupees a year. Syed Reza Ali spent his newly acquired wealth right royally on occasion. One of his last acts was to agree to build a serai at a cost of over 30,000 rupees, which work will now be taken in hand under Government direction.

I have now touched on many points illustrating the daily life of the district, and in parting with the subject, I desire to pay the highest possible tribute to the general tone of all classes in their relations with the official class. I believe that a more courteous, docile, and orderly people it would be extremely difficult to find ; in fact, the great danger that besets a district officer here is, that he may be spoiled by having too easy a time, and unfitted for a more turbulent charge. The spirit of obedience to authority survives here, and this does not appear to me an unmixed evil : a little bucolic simplicity has its advantages from an administrative point of view.

H. G. COOKE,  
*District Magistrate of Purneah.*

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## ART. II.—THE RELATIONS OF MISSIONARIES TO GREAT EUROPEAN AND ASIATIC GOVERNMENTS.

A PERIOD has arrived in the history of missions to the non-Christian world, when it is as well to reflect calmly, whether it be wise or just, or consistent with the principles of the religion which it is our object to extend, to do what may be generally called “lean on the arm of the flesh,” and permit missionaries and their converts to appeal to treaties, and solicit the protection of the Powers that be. And it is more particularly necessary for British missionaries to reflect upon this subject, as it is not the British religion which they are preaching but the Christian, and one that is equally true whether the message be delivered by a British missionary, who has behind him the force of a giant, or by the Swedish, Danish, or Swiss missionary, who have to depend only upon the goodness of their cause and the protection of their Divine Master.

I purposely omit any allusion to any particular Societies, or particular instances of appeals to the British Government. Missions to the natives of Asia and Africa and Oceania are still, as it were, in their infancy, but may be expected to assume proportions in the next generation of a magnitude far beyond the wildest dreams, and it will be an unmixed blessing to them, both in their temporal and spiritual matters, that God should have put it into the heart of Christian nations to send out the very salt of their people to settle amidst the heathen, not for any purpose of commerce or conquest, but from motives of pure benevolence. Now missions may be planted, and as a fact, have been planted in countries where political circumstances represent two very distinct varieties:—

I.—Where the political power is entirely in the hands of a civilized European Government totally independent of foreign control.

II.—Where there is a Government established upon a basis of Asiatic civilization, nominally independent, but circumscribed in its action by treaties, and the powerful logic of ships and gunboats of foreign nations.

It is no longer a matter of surprise to me that Russia, Austria and France, Italy, Spain and Portugal, object to the appearance of a missionary in their dominions or their colonies. The Governments of these countries have only to mark the conduct of the missionaries in British India, China and Turkey. The

most mistaken assertions are made in the most unscrupulous way. Every travelling grievance-monger quotes a missionary as his authority. Holding as we do the empire of British India with a very small European army which has to be renewed within a fearfully brief period, and the control of which is an anxious problem, it might have been imagined that those who live under the protection of that army would have been cautious in their mode of making statements. I can recollect the time when a portion of the British army, the European soldiers, mutinied upon a purely regimental matter, and the authorities were in a frightful dilemma: what would become of the Missionaries, their schools, and their chapels, and converts, if the British soldiers, in resentment for the hard things said by missionaries about them, were to mutiny: there must indeed be a deep feeling of indignation throughout military circles, especially when an American citizen at a great meeting in Exeter Hall is put forward to second a resolution condemning the British army as vicious and disreputable, and to state broadly that the conduct of the Government of India was worse than the Bulgarian atrocities of the Turks, and that the British deserved to be turned out of India bag and baggage. A British missionary audience received these remarks with applause, and a paid servant of the British state, Sir Arthur Blackwood, put the resolution thus supported to the meeting and was not ashamed.

The empire of British India presents a unique instance of the first variety. There is no country in the world, and never has been in the annals of history, where such entire liberty is given to the preacher of spiritual truths either by word of mouth or by printed matter. No permission is required or asked for. Protection of person and property, absolute and unrestricted, is conceded. Property in land may be purchased or leased; no law of mortmain, no legal incapacity of any kind exists; if the Mahometan, or Buddhist, or Brahmoist were to set on foot missions, the magistrate, Gallio-like, would care not for such things. On the other hand, civil and religious liberty is absolutely guaranteed to all classes: so long as the peace is preserved, and the rights of other subjects are respected, religionists of all kinds may erect places of worship, may ring bells, and fire guns, lead out long processions, and go upon distant pilgrimages without let or hindrance. If, however, the preacher of one set of spiritual doctrines should attempt to erect a place of worship or assembly in offensive proximity to that of another; if any act of illegal provocation or insult to the feelings of any portion of Her Majesty's subjects were to be committed under the guise of religion, the Government would promptly interfere to anticipate the destruction of property or the shedding of blood. To the

honour of Christian Missionaries in British India be it said, that no such act has ever been attempted by them ; no improper applications to a magistrate are made, or if made, would be attended to ; in only one instance do I recollect a case of a chapel being ordered to be removed by the Government, because it was erected on the edge of a sacred tank.

In such a Utopia of missions are the missionaries satisfied ? Not in the least ! *Quo plus habeant eo plus cupiunt.* Not even the Government of China or Turkey has been so unsparingly abused by the missionary as the just and impartial Government of India, which is represented in its Governors, and Councils, and men in authority, by Protestant, Roman Catholic, Jew, Hindu, Mahometan, and Parsi members, not one of whom has ever been known to deviate from the line of strict impartiality in his official position. The fact is that the Protestant missionary in his heart of hearts desires more than a free field to be conceded to him ; he asks for a neutrality in educational matters benevolent to his way of thinking, but which he would resent if conceded to the way of thinking of others. If the Jesuits got round the Government, their influence would be denounced. The object of the Government of India is to retain the country in the peaceful enjoyment of civil and religious liberty ; the missionary in India should consider the circumstances of other heathen countries, and so use his own Christian privilege as not to interfere with the privilege of others : if we lost India, we should lose the greatest field for missions that the world ever saw.

The liberties taken by some Missionaries are extraordinary. An officer, high in employ, sent me a copy of a letter which I have before me, actually written by a missionary to the Prime Minister of the Sovereign Prince within whose territory he had with great difficulty obtained leave to open a hospital, charging him with sending off boat loads of people to be got rid of feloniously during the night : he admits in the letter that he had no proof, but could not help thinking that there was truth in the report. In a lofty style he writes, that he cannot pass over the matter in silence until full inquiry is made, and he (the missionary) is satisfied that the rumour is false. The Sovereign Prince ordered an inquiry to be made, and naturally asked for the names of the informants of the missionary, which he declined to give, and the matter dropped. The question naturally suggests itself, who made the missionary ruler or judge in such a matter ? Can it be a matter of surprise if a Native Sovereign in India does his best to keep a missionary out of his territory ?

A question of rent arose between the tenants and landowners in a province of India. It would hardly be expected that a



missionary would take a leading part in a kind of agrarian war. My own opinion was that his view of the case was the right one, but it was not right for him to have any view at all : in fact, he was acting precisely as the Romish priests are acting in Ireland now, siding with the tenants against the landowners. He became very popular with one party, but so unpopular with the other, that on a charge brought he had a sentence of one month in gaol. Now all this must disturb the quiet routine of Gospel preaching, which is the only cause of the existence of the missionary. So long as the British Power is strong and unshaken, India has been open to all comers, and no passports or permissions to sojourn are required. But in time of peril like the Mutinies, passports are required from all foreigners. An amusing case occurred in 1857-58 : the American missionaries, as a matter of form, were called upon to take out passports, and one of them declined, thanking God that he was an Irishman ! This might have surprised any one not familiar with missionary life. In a late visit to Damascus I find that the leading missionary of the Irish mission was an American, and in Egypt one of the leading missionaries of the American mission was a Scotchman.

Returning to the main subject, it cannot be too strongly impressed upon missionaries, that any conduct on their part calculated to weaken, or oppose, or bring disrepute upon the Government of India, is suicidal to their own prosperity. The old East India Company is blamed because it would not allow missionaries in India in the beginning of this century. It is clear that it would not have built up the Empire, had indiscreet missionaries been at large before the provinces were well in hand ; and when the power of Great Britain in India becomes weakened, the greatest sufferers will be the missionaries and the Christian congregations. The Roman Catholic missionaries have given no trouble in India ; they have been chiefly Italians or Portuguese. The Protestant missionaries have been exclusively German, American, or British.

In South Africa a French Protestant mission settled in Ba-Suto Land I understood from the late Sir Bartle Frere that much of the trouble in one of the wars in the Cape Colony arose from the conduct of the French missionaries. At the Congress of missionaries at Mildmay in 1878 (Report, p. 86), I read :

Hence, when you Englishmen in 1852 came to fight against the Ba-Suto, *we fought against you.*

At the Congress of Missionaries in Exeter Hall in 1888, the Directors of this French Mission justified what they called "missionary patriotism" ; they took a pride in following a policy of direct *hostility to the British Government*, and it was difficult to see how this was consistent with the position of a

foreign missionary in British territory. The British and Foreign Bible Society in Christian love supplied them with a translation of the whole Bible in the language of the tribe : the President of the French Republic bestowed upon the Chief Director the Legion of Honour for "advancing French interests" (Heaven help the mark !) in British colonies. The British take these matters coolly as cosmopolites,\*but the Germans very naturally rigidly exclude French missionaries from their colonies.

How do the French act in their own colonies ? The French missionary, whether Protestant or Roman Catholic, wherever he goes puts his nationality offensively forward : the Governor of the French colony makes the colony too hot for missionaries of another nation. In Algeria and Tunisia the British missionaries have a precarious existence : the Bible Society, however, is tolerated. In Senegambia there are none but French. From the Gabún colony south of the equator, the American mission, which has done so much good, is being gradually pushed out. In Melanesia the British missionaries are being expelled from the Loyalty Islands, and are threatened in the New Hebrides : one of the chief objections to the French occupation is, that the free action of the missionaries will be jeopardized. In the Society's Islands the French occupation has driven out, or is driving out the British mission which has raised the inhabitants from the position of savages in which Captain Cook found them.

Germany has only lately founded colonies or subject states, and sets about missions in a way peculiar to herself. One of the most experienced German writers on missionary topics thus expresses himself :

The opinion of the German African Society with regard to Missionary Societies, is that they are not unselfish attempts to spread the Gospel, but merely handmaids to colonial politics : a cow to give milk to the mother country.

The general conception seems to be as follows :—

I.—Only German missions in German colonies.

II.—The missionary is to be the pastor of the German colonist, as well as evangelist of the heathen.

III.—He is to work solely for German interests, and to make his converts good German subjects.

IV.—He is to teach the natives to work, by giving them an industrial education, as well as spiritual : the motto is, "work and pray, and pray and work:" but the prayers must be in German, and the work for Germans.

V.—No other language to be taught but German. In the Kameruns the English language is to be trodden down, and German state instructors are sent to teach German.

The first action of the Germans at Ebon in the Marshall Islands in Mikronesia was to fine the native pastor of the American mission 2,500 francs for wishing to protect the natives against the deceit of foreign missionaries. In the Kamerús where the British Baptists were got rid of, the German Government desired the Basle Missionary Society to accept the task because it was composed of German elements, and consequently sympathetic to the interests, political and economical, of Germany. To this the Society bravely replied, that it always maintained a position above all political considerations, and would never depart from it, all that was asked being liberty of action.

At present in Eastern Equatorial Africa there are two Protestant British missions within the sphere of German influence ; but to mark the cynical view of the German Government towards all missions, a German Roman Catholic mission has been specially invited as a kind of equipoise to the existing French Roman Catholic mission, and a German Protestant mission as supplementary to the two British missions.

It appears that the Government of the Netherlands, a Protestant country, to a certain extent connects the State with missionary effort in her Asiatic colonies, and looks upon them as political engines. Spain has hitherto prevented any Protestant influence from penetrating into the Philippine Islands, and caused some trouble to the American missionaries in the Caroline Islands in Mikronesia. It is recorded, that the American board complained to their own Government of the deportation of their missionary from the island, that the United States Government sent a man-of-war to the island, and that it was considered a great point gained that " American missionaries were cared for by their national authorities," and that the Captain of the man-of-war in a letter advised " all Americans, *whether Christians or not*, to get down on their knees and return thanks for " having been born in free America." When it is recollected that these missionaries were in the ancient colonies of Spain, that the right is admitted of every Sovereign State to deport aliens at their will and pleasure, and that a man-of-war of an alien State was sent to encourage alien missionaries apparently against the constituted authority, it may be a source of wonder how the Gospel of Peace can be preached under such circumstances, and no wonder will be felt if the admission of alien missionaries is for the future steadily opposed by second-rate powers like Spain and Portugal. In British India the American missionary is welcomed according to the policy of the British Government, and in recognition of the personal qualities of the missionary ; yet if the missionary disobeyed the legal orders of the constituted authorities, I doubt whether

the appearance of the United States ship "Essex" on the Hooghly would have saved him from punishment. I deeply regret the interference of ships of war, or gunboats, or the civil power, in the affairs of missions, and shall never cease denouncing it, whether those ships are British or American, or French, or German, or Spanish, or Portuguese.

The colonies of that miserable State, Portugal, remain to be noticed. On the west coast of Africa, the authorities of the colony of Angola appear to have adopted a friendly attitude to the American missionaries who penetrated through the colony to Bailundu. No doubt Portugal has visions of spreading across the continent to Mozambik, and there may be troubles in future. On the east coast the attitude of Portugal is hostile to the Protestant Missionaries on Lake Nyassa : indefinite claims of sovereignty are made, and the desire is expressed to extend the frontier of the colony of Mozambik so as to include that lake. That may or may not be, and the missionaries must take their chance ; the British Government neither can nor will give them any help. Like the other British missionary societies which have established themselves on the central equatorial lakes, they must rest upon the Divine aid only, and their agents must be prepared to die at their posts. But the missionary interest is not the only one on the water of the river Zambési and its confluent. Great Britain is a protector of the vast territories of Ma-Tábele-land south of the river, and can never allow a petty state like Portugal to put a cork into the mouth of one of the great arteries of Africa, and, as the Foreign Secretary lately informed a deputation, a ship of war in the interests of freedom, of commerce and navigation, will soon open the mouths of the Zambési to ships of all nationalities.

I pass now to the second variety of circumstances where there is a Government established upon a basis of Asiatic civilization, nominally independent, but circumscribed in its action by treaties, and the hard logic of ships and gunboats. China and Turkey supply conspicuous instances, and both countries are magnificent fields for missions.

I have before me a little volume, published at Rome, called *Violation du Traité de Peking*, which sets out the Roman Catholic grievances, of which France is the champion. Another small volume, *Aperçu historique sur la Chine*, also published by the Propaganda, sets forth the long history of missions to China, the martyrdoms by beheading and strangling, the imprisonments and the spoiling of goods, which have rendered the Roman Catholic mission work of that land illustrious. Its staff a few years ago consisted of twenty-one bishops, two hundred and seventy-eight European missionaries, two

hundred and thirty-three native priests, scattered in every part of the Chinese dominions, amidst half a million of converts. The Protestant missionaries number six hundred, but do not form one compact body, and upon the subject now under discussion there exist two distinct parties.

The Roman Catholic mission, with a strange inconsistency, is the loudest in its appeals to the eternal principle of religious liberty guaranteed by treaties and invoked by consuls. Allusion is made with complacency on the one hand to a pagoda being converted into a church, whilst no words are sufficient to denounce upon the other, the injustice of the secularization of a church. Emperors are described as having been killed by lightning, and cities destroyed by earthquakes, to evince the anger of an outraged God. It seems stranger that priests, with such a formidable arsenal in reserve, should regard as of such paramount importance the insignificant treaties of Peking and the French consulate.

The French Government has ever put itself forward as the protector of religion in China, and the French have openly asserted in their own praise, that while other nations, especially the British, warred with China in the interests of commerce, they warred in the interests of religion. Lamentable indeed as have been the British wars, still it would seem almost better to force commerce into a country at the point of the bayonet than to force missionaries into it after the same fashion. In the one case we have at least but a simple evil, in the other a compound one, and what might have been a blessing becomes a curse. We may rely upon it, under all circumstances, gunboat commerce is a less evil than gunboat Christianity. It is well known that it is only in the French copy of the treaty that exists the well-known religious clause which could only be extended to British subjects by the application of the "most-favoured nation" clause. Successive British ministries have refused to adopt the French clause as the measure of our treaty rights in the matter of missionary work. One of the chief occupations of the French Legation consists in pressing claims for redress, and making reclamations on behalf of missionaries. It is always in trouble, and with any but satisfactory results; and it is this constant source of trouble and anxiety, and the difficulty of giving effective protection in the interior, that has caused the indisposition of the British Government to press for similar rights.

It is notorious that the Chinese Government, anxious to get rid of the semi-religious, semi-political claims of France, offered to accept the Pope as the representative of all the Churches of the Roman Church, and the Pope was quite ready to accept the duty: but France would not agree to it, and by threats of

the repeal of the Concordat in France, compelled the Pope to withdraw from this arrangement: the Chinese Government in consequence issued a proclamation of Universal Toleration of the Christian religion, thus reducing the possibility of French interference to a minimum.

The French Government urges the cases of the Roman Catholic missions only. I have yet to learn whether Republican France would extend its protection to French Protestant missions also. Under the ægis of Great Britain are many different churches and missions, and no one missionary body has a right to go up to the Foreign Office as a general representative of Protestant missions in China. It is as well to hear the views of one Missionary Society on the question:—

RELATIONS TO GOVERNMENTS—Too great caution cannot be exercised by all Missionaries residing or journeying inland to avoid difficulties and complications with the people, and especially with the authorities. All the agents of the Mission must fully understand that they go out depending for help and protection on the LIVING GOD, and not relying on the arm of the flesh. While availing themselves of any *privileges* offered by the British or Chinese Governments, they must make no *claim* for their help or protection. Appeals to consuls to procure the punishment of offenders, or to demand the vindication of real or supposed rights, or indemnification for losses are to be avoided. Should trouble or persecution arise inland, a *friendly representation* may be made to the local Chinese officials, failing redress from whom, those suffering must be satisfied to leave their case in God's hands. *Under no circumstances must any Missionary on his own responsibility make any appeals to the British authorities.* As a last resource, the injunction of the Master can be followed, "If they persecute you in this city, flee ye into another."

Those engaged in the Lord's work must be prepared to "take joyfully the spoiling of their goods," and to "rejoice they are counted worthy to suffer shame for His name" Let them be imbued with the same spirit as Ezra (Ez. viii. 21—23).

In preaching and selling books, the collection of large crowds in busy thoroughfares should as far as possible be avoided; and where it can be done, any difficulty should be arranged without reference to the local authorities. The carrying about and display of unnecessary property is also to be deprecated; it may lead to robbery and loss, in which case no *demand* for restitution should be made. As little intercourse with local authorities as possible should be attempted, and if their help on any occasion become necessary, it should be asked as a favour, and never demanded as a right. On no account should threatening language be used, or the threat of appealing to the consul be made. Great respect must be shown towards all in authority, and must also be manifested in speaking of them as is required by the Word of God.

Where prolonged stay in a city is likely to cause trouble, it is better to journey onward; and where residence cannot be peaceably and safely effected, to retire and give up, or defer the attempt. God will open more doors than we can enter and occupy. And in conclusion, the weapons of our warfare must be *practically* recognized as spiritual and not carnal.

How noble, how true to Bible teaching, how expedient even from a wordly point of view are such sentiments ! Nor is it an empty boast. In 1879 Lord Shaftesbury quoted with satisfaction the statement, that no missionary of this Society made any assumption of national superiority, or any undue insistence on treaty rights, and he remarked on the contrast which this offered to the old scandal, that "*with the Missionary there was always the inevitable gunboat*" A missionary who had traversed China on foot and unarmed, remarked that all application to the British Foreign Office, or pressure upon the British consul, with a view of intimidating the Chinese authorities, would be a mistake, would do no good, and probably do great harm. It may be accepted as a fact, that the Chinese authorities are quite impervious to any argument, unless they anticipate the will and the means of the consul to enforce redress, and this means to move up gunboats. It is of no use for missionaries to protest, that they do not wish to learn on the arm of the flesh or seek the aid of gunboats ; they must understand that there is no medium. If they could persuade the Foreign Office to set the ball rolling (which they will never succeed in doing), it must mean the application of threats and possibly bloodshed. Any amount of suffering or loss of property were preferable to this sad alternative.

The sentiments expressed by this Society are shared by other missionary societies in China. During the whole course of the history of some missions, the missionaries have never requested the aid of their Government ; their only weapon has been kindness and a spirit of conciliation. And this line of conduct is more especially necessary in China, where other questions have been so inextricably mixed up with the policy of the British Government. The missionary might suffer temporary injury and discouragement, but in the long run he would be the stronger by letting the people and authorities feel that, as missionaries, they were not connected with the compulsory measures and the over-bearing provisions of treaties whose stipulations rankle in the breast of every subject of that ancient kingdom.

The subject is of such importance, and I am so desirous that young missionaries should understand the problem, that I quote extracts from the Secretaries of some of the leading missionary societies :

- I discourage our missionaries from holding property in China outside the Treaty Ports, and then only the houses they occupy.
- When natives were willing to make over places, and even family temples to the mission, I always urged them to leave such properties in native hands. In all our missions we try to avoid all reference to the British authorities : they hamper more than they aid.

There are peculiar difficulties in one province owing to the policy and conduct of the Romanists : their constant reliance on the Civil Power, and frequent unhappy use of it, have the tendency to embitter the heathen population, and also to encourage injustice and a singular kind of arrogant *terrorism among those who become Christians*.

I am persuaded that official remonstrances do not help in the long run. Patience is our strength when we are in the right.

During the whole course of the mission's history, our agents have made their way, and found safety and acceptance among savage tribes quite independently of any aid from gunboats or otherwise from Government. The power which they exercise is that of kindness, and an evident desire to deal justly, and to benefit them. Their response has almost always been one of confidence and friendly bearing, the healthful product of kindness, and not of fear of a gunboat in the background. Treaty rights invoke treaty wrongs, to the injury of the people, and the hindrance in the most fatal manner of missionary effort.

It is a common expression at missionary meetings, that God's guidance is prayed for and sought for. God's mercies are recognized in success, and traces of His controlling wisdom should be sought for in disappointment and failure. God speaks no longer in dreams and visions or by the voice of heavenly messengers, but His guidance can be seen by those who seek Him faithfully in the persecution and the destruction of churches, in imprisonment and martyrdom. By these is the sincerity of the converts tested. Both China and Madagascar have passed through this ordeal. If we use the arm of the flesh to combat those reverses, we may haply be found fighting against God. Strange to say the same reports which tell so sadly of the suffering of the missionaries, tell also of the steadfastness of the native church and of additions to its members. We are apt to set too great value on the bricks and mortar of our buildings. What matters it whether they are consumed by a fire, as at Hakodáti, or by incendiaries as at Fu-chow? We must recognize the chastening hand of the Lord in both events and be thankful.

In one district there had been persecution ; several converts were beaten, and one or two killed, others imprisoned and tortured ; these last were released at the earnest requests of the consul, who however had no lawful grounds of interference. These troubles may prove beneficial in keeping the Churches clear of increase members, and by giving the converts clearly to see that foreigners cannot protect them either from their own people or officials, and may teach them to look more directly to God and to trust in Him alone. It is profitable to read the accounts of the sufferings and the steadfastness of the early Christian martyrs in the first and second centuries, and the persecution of the Church of Rome in the fifteenth and sixteenth. The blood of the martyrs is still the seed of



the church. The British missionary should read the stories of Columba of Iona, of Aidin of Lindisfarne, of Boniface of Exeter, and try to bear hardships like good soldiers and not to call for gunboats.

And when we plant the church in China, we must seek to plant it as a Chinese church, and not as a semi-Anglican one. Such a native church can only be solidly based on national self-respect, affected, it may be, by national weaknesses, and perhaps by national independent treatment of Christian truths. It will then last long after the gunboats of Great Britain have fallen into decay, and her commerce has shifted to younger nations. The governing classes reflect the general feelings of the people: the literati and gentry who are credited with all the opposition, are recruited from the ranks of the people, and fairly represent the clergy and landowners in Great Britain, who are as a rule extremely conservative. The objection of the Chinese to Fung-chui is real and not fictitious, and as regards lands and houses these sentiments, however ridiculous they may seem, indicate the actual feelings of the people, and no doubt of the native Christians also. Missionaries must deal gently with the prejudices which they encounter. To occupy a sacred site and build upon it a missionary residence or school under any view of the case, is an act of extreme indiscretion, to which no lapse of years can give a sanction. To convert a pagoda into a Christian place of worship is one of those acts which may be resented for centuries. We have instances of the evil consequences of such a policy written in blood in every country. If Mahometan or Brahmoist or Buddhist missionaries were to appear in London, and erect a place of worship under the shadow of the Abbey, or appropriate a proprietary chapel of any denomination to their purposes, would a London mob tolerate it, however much religious tolerance be the law of the land?

The conclusion to be arrived at seems to me this: that a missionary should try to win his way to the hearts of the people, and should under no circumstances invoke the arm of the flesh for the protection of property, or accept compensation for property lost. He will find it more profitable in the long run to exhibit the patience and charity and unselfishness which will disarm his antagonists. If his life be endangered, he must save it by timely flight; if imprisoned, there can be no doubt that collective intercession will be made for him in such a manner as to secure his liberation; if he fall, he falls a blessed martyr, he does no more than numerous examples have gloriously sanctioned, than the Gospel predicts, and than hundreds of his countrymen have been willing to do in every part of the world, even when the prize to be gained

was but an earthly one. Persecutions were not unknown in the early days of Christianity, and yet it triumphed in the end. It is idle to expect the crown without the cross. There are many sufferings still unsuffered, many crosses not yet taken up, many crowns still to be won.

I have twice visited the Empire of Turkey with the view of contrasting their system of governing conquered provinces with the British system in India. I was sitting in the divan with the Pasha of Damascus, when a European consul was introduced, who hectorcd and bullied the Pasha while actually on the seat of judgment. I had myself governed large Asiatic districts, and recognized the salient features of the complaint as of not uncommon character. The Turk smoked and bore the abuse stolidly, at least to outer appearance. I felt for him, and felt also that if any representative of any Power in the world had behaved in such a manner in my office, I should have had him turned out forthwith, and, if he repeated such conduct, should have fined him for contempt of court, and looked to my own Government to support me. The British magistrate and consul know that the best missionaries give them the least trouble, if indeed they give any at all. The argument that the consuls of other nations have succeeded in compelling an unwilling Government to make concessions is an unworthy one and not always true. In a discussion in a British committee room about troubles in China, the Secretary to an American board of missions was asked, how it happened that their missionaries were always backed by their consul. The reply was an expression of surprise on the part of the American Secretary, and the dry remark that his missionaries complained that the British missionaries were always backed by the British consul, while the American consul refused to interfere.

I have no love for the irrepressible Turk, and I have traversed great parts of Turkey and studied its system, which is bad, thoroughly bad ; yet I cannot excuse missionaries of gross violation of the first principles of duty of an alien permitted to reside in a foreign country. Neither Russia, Austria, nor France would have tolerated such conduct for an instant. It is an understood principle of international law, asserted and practised by every Continental Power, that they have a right to eject any foreigner from their country for reasons best known to themselves. Turkey has the same *de jure*, and some day will be irritated to the necessity of using it.

I visited a celebrated city in Turkey and found that the medical missionary was in great distress, because the Governor had stopped the erection of his new hospital. I visited it : it was on a lofty hill commanding the town, and had the

appearance and reality of a fort, with walls pierced for musketry and embrasures for guns. Any hospital built on such a site and in such a style in British India, at Benares or Amritsar, would have been dismantled at once. In the case of trouble it would have been at once occupied by rebels, and nothing but a siege would take it. And yet the doctor abused the Turk!

Clearly a Sovereign State has the control of its own educational department. Austria, Russia, France, Germany, and Italy claim for the State the monopoly of public instruction. If missionaries act with conciliation to the local authorities, they can keep open their schools, but it is of no use blustering, and claiming under a treaty a right to open schools avowedly to convert the Mahometans. I am not quite sure that even in free England large Mahometan schools would survive the popular indignation.

Then again as regards the criminal law and the police: the missionaries are not the judges, whether the local Governor is just or unjust, and it is a monstrous abuse of the hospitality of a friendly State for a resident alien to give shelter to a man for whose arrest a warrant had been issued, to conceal him in the mission premises, and smuggle him out of the jurisdiction. Yet such a case is reported with complacency by a missionary who thinks that he has done a praiseworthy act. In British India, any missionary who acted thus would have found himself next day in prison without benefit of clergy.

My opinion is that the missionary should mind his own business, and following the example of St. Paul, keep on good terms with the powers that rule whether in India, China, Japan, or Turkey: he should abstain from writing complaints home, but get access to the local authorities, and get them over to his side by the pleasantness of his bearing and conversation. Missionaries very rarely quarrel with the authorities in British India, as they are highly valued, and as a rule are reasonable men. The oldest missionaries never think of complaining: they put up with little inconveniences, and get their way in the long run when their wishes are reasonable. The difference is well known between the real Gospel-preacher, the simple-hearted missionary, and the grievance-monger, the spy who introduces himself into the military cantonments to watch the proceedings of the brave but thoughtless British soldier, the frothy declaimer against the liquor shop, and the man who is always at war with the education department. The former are loved, honoured, and always welcome. My first idea of a missionary was in 1844, when I met at Ludiána on the Satlaj good John Newton of the American Presbyterian Board. I have had my eye on John Newton for forty-five

years, and he is at his work still, as I heard from him last month. For twenty years I was as an official in relation with him, and never heard a complaint from his lips ; but I marked well his consistent Christian walk. There are others of his stamp, and I wish that all were like them ; but a great deal depends upon the character of the missionary, the local authority, and the general population. There must be light and shade in the life of missions as in the life of man, and a spirit of conciliation, a practical illustration of the principles that are preached, a determination not to depart from the law of love and discipline of patience except under extreme necessity, will work its way at last. If it does not, let us remember that in all cases it will be better to abandon the mission at least for a time, rather than to alienate the hearts of the non-Christians and make Christianity odious in their eyes.

ROBERT CUST.

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### ART. III—SOME AGRARIAN QUESTIONS IN THE PUNJAB.

THOSE difficulties which in the Bombay Presidency resulted in the passing of the Deccan Ryots Act of 1879, have cropped up at different times in the Punjab also. In 1887 a series of official papers on the subject was published as selection No. LXV from the records of the office of the Financial Commissioner (New series No. 11.) This dealt with agricultural indebtedness and mortgage sales; and the net result is summed up in a minute by Colonel Wace (Financial Commissioner) which should have brought the situation home to those acquainted with the Province.

Meantime there had appeared in 1886, from the pen of an officer serving under the Punjab Government, a brochure with the somewhat alliterative title of "Musulmans and Money-lenders in the Punjab." The author, Mr. S. S. Thorburn, has spent some twenty years in various capacities, chiefly in the Indus tracts; and, as settlement officer of the Bannu District, had been keenly interested in various questions treated in his book, which touches a good deal more than its name alone might indicate.

The main position which forms the *raison d'être* of this work may be summed up as follows:—

I. The actual land-holders, including those that till the soil by their direct exertions,—and these in the Punjab form the bulk of the land-holding class,—are to a great and increasing degree falling into a state of hopeless indebtedness.

II. There is thus a risk, involving grave political and social dangers, that a once independent, often proud, and largely warlike body may be turned into the embittered serfs of a knot of selfish usurers, formerly despised and mastered by that body itself, and of no intrinsic weight in the defence or government of the country.

III. This state of things has in part arisen from the policy of the Administration, and must be remedied by a reversal of that policy in certain respects, and important modifications of its course in others.

Mr. Thorburn dwells, in passages of his book, on what he evidently ranks among the principal causes of the condition stated. It is not altogether easy to separate his definite views

from the running commentary of argument and illustration, not to say declamatory matter, with which they are involved ; but the chief mistakes which his treatment of the subject suggests in the policy of the past are fairly ascertainable.

He blames that policy, uncompromisingly, for three things which, he says, its exponents have done, and for two things which they have omitted to do, respectively.

The three things that have been done may be roughly stated thus :—

(1). The creation of private and transferable property in the land ;—

(2). The introduction of fixed assessments, payable in money, on the land ;—

(3). The building up of an elaborate Statute-book and Procedure Codes, to the exclusion of what the writer mentions as the rules of “ justice, equity, and good conscience ” : while the two things that have been left undone are these :—

(4). The restriction of free trade in landed property ; and

(5). The provision of an insolvency law, wide and easy enough to admit the agricultural debtor.

These five points by no means pretend to exhaust the author's quiver : the pamphlet is replete with shafts, aimed at the men of the past and the measures of the present, but the graver omissions and commissions alleged range themselves under one or others of the heads just given.

The matters agitated, and the remedies propounded, had been in great part discussed before, notably in those proceedings of which the despatch of the Secretary of State to the Government of Bombay of the 26th December 1878, may be looked on as the pivot. What Mr. Thorburn has done is to transfer to the Western Punjab, the lines of the former controversy ; believing that similar evils to those which disturbed the Deccan in 1875, affect the tracts with which he is familiar, and may any day result in a more mischievous explosion. His general thesis is thus enunciated by himself :—“ The Punjab is an agricultural province, a land of peasant proprietors, a large and annually increasing portion of whom are sinking into the position of serfs to the money-lenders.” It is possible, no doubt, to find unpleasant confirmation of this strongly worded view in the statistics of the Agricultural Department. It may be doubted, however, whether pending improvement of the subordinate machinery, these records can be accepted as sufficient proof either one way or the other.

More palpable evidence is afforded by the Settlement and Assessment Reports of the past decade. An example may first be taken from the original sphere of Mr. Thorburn's strictures in the Western Districts.

Mr. Tucker, settlement officer, writing of the Derah Ismail Khan district in 1879, gave a minute account of mortgages, from which these significant passages are taken :—

"703. In the Dehra Ismail Khan Tehsil the proportion of land "mortgages is heaviest to the north in the Paharpur, Panniala and "Khasar Circles. In the Daman the proportion is generally "small."

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"The bulk of the mortgages in the Kalachi Tehsil are for the "Gundapur Circle. The Gundapur mortgages have been already "discussed in my account of that tribe (See paras. 282 and 283.)

"There is also a good deal of mortgage among the Babars and "Ushtaranahs. Leaving out the Gundapur circle, the proportion "borne by mortgages to the assessment is much the same as in "the other Tehsils. Three-fourths of the mortgages of this "Tehsil are to Mohammadans."

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"In the Dera, Bhakkar and Leiah Tehsils, the bulk of the "mortgages are held by Hindus. As a rule the greatest amount "of mortgage is to be found in well-tracts.

"Proprietary rights in wells were clearly recognised under Native "Governments, and a large proportion of these well-mortgages "date back to pre-annexation days. The cultivators of Sailaba "and Daman lands originally held the position rather of tenants "than of proprietors, their rights being acknowledged only so "long as they cultivated their lands efficiently. Such lands there- "fore were only mortgaged in the more settled tracts. To the "present day there is but little mortgage in the river villages, "where lands are liable to be washed away, and do not therefore "afford sufficient security to the money-lender. In parts of the "Bhakkar and Leiah Kachi, the population is very indebted, and "there is no doubt that many of these small Mohammadan pro- "prietors must eventually be sold up. As Mr. Lyall writes, 'all "we can do is to amend anything in our revenue system which "'tends to hurry on the process. Only a minority of these men "'have proved fit for the improved status which we gave them ; "'the majority will descend in time into the position which suits "them, of mere tillers of the soil, with enough to live upon, but "'no credit to pledge and no property to lose. Their original posi- "tion under native Governments was little better than this. It is "'of course the too frequent elevation of the despised Karar or "Hindu money-lender over the heads of a naturally dominant "Mohammadan population which is the worst part of the "change.'

At page 87 of "Musulmans and Money-lenders" the Settlement Commissioner's remark quoted by Mr. Tucker is made to apply to the whole Mohammadan land-holding community of the Western Punjab.

It was plainly, from the context, written of a limited class, holding by a limited and special tenure in a particular strip of the Derah Ismail Khan district. It by no means follows, therefore, that the most competent revenue experts of the time considered other measures than the tempering of the revenue demand impracticable.

Again ; the continued indebtedness of the Gundapur Pathans, which the extract discloses, should be read with Mr. Thorburn's eulogy on the departed glories of the Sikh Administration, at pages 43 to 45 of his book. The passage is too long for quotation, as also that in which he sketches the Arcadian state of the Gundapur and Ushtaranah circles under a system of revenue collection from the actual threshing floor, such as has continued, with other plausible devices in the East from time immemorial. He admits, it is true, that any general revival of the crop appraisements and State landlordism which he describes is out of the question ; but the prologue is calculated to leave, with many of his readers, a prejudiced impression.

In a minute written some years ago on certain propositions by the late Lord Hobart, Sir Louis Mallet warned his colleagues that speculation on the first principles of Indian revenue would not long be kept within academic limits ; and now the Government is being assailed with a cry for collection of the land revenue in kind *and a permanent assessment*. It is all the more incumbent therefore on those who raise the ghosts of buried controversies to state the whole of the surrounding circumstances. The value of agitations which profess to court the daylight of economic science, can be readily gauged by expressing the current watch-words of the parties engaged, in terms of the commodities that are at stake in the actual market.

In Scotland the law of "hypothec" was doomed so soon as it was clearly understood that the landlord's claim involved a lien on the farmer's oats and beans, to the exclusion of the farmer himself in a bad season. In Ireland we are convinced at last that the native theory of "rint" amounts to a qualified willingness to make over an inconvenient pig, or a bushel of damaged potatoes. To put the Bengal difficulty in a concrete shape, the Collector will doubtless be invited, if he wants to recover his rice allotment from the Jheels, to come and take it.

That clamour should be raised in interested quarters against progressive settlements of the State demand is not surprising. It is none the less disappointing that skilled witnesses should ignore the deliberate judgment recorded, after trial, against the indigenous system by a practical statesman like the late Sir Salar Jang \*

Before leaving the Western Punjab it should be noted that the race and religious animosity on which Mr. Thorburn lays

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\* Famine Commission Report, Appendix II, Selected Evidence, page 79.



so much stress is a local, though undoubtedly a potent factor. In the Eastern portions, where this aggravated symptom plays a subordinate part, the prospect is, nevertheless, by no means reassuring. The officer (Mr. Douie) who has lately revised the settlement of the Jagadhri Tehsil in the Umballa district,—a mainly Hindu tract,—after giving a statement of the percentage of revenue-paying land that has passed since 1856 from the hands of its former holders, says,—

“Between Rajputs, Gujars and Jâts there is little to choose as regards the fatal facility with which they get rid of their land, and these three tribes at last settlement owned nearly two thirds of the whole Tehsil, and still own above half of it. The Jagadhri Jât is a very different man from the sturdy Jat of the Punjab. He works harder, as a rule, than his Rajput neighbour, but if he has the misfortune to live near a small town, he gets into debt nearly as easily. The state of some of the Jat estate near Jagadhri is deplorable. Even the thifty Kamboh has not held his own. Rarans and Malis have stood their ground, but their stake in the Tehsil is a small one.

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“Once the Zamindar is deep in the bunniah’s books there is no escape for him, and our judicial system undoubtedly helps him to his ruin. It may be said that it is a good thing that such weaklings should go to the wall. But the bunniahs, who are taking their place, are greedy and unimproving landlords; and the future of the Tehsil seems to me a dark one, unless some radical measures, such as have been adopted in another part of India, are taken to arrest the progress of decay.”

From the figures of the table which precedes these observations, it appears that in less than a generation the Rajputs of the Jagadhri country have been dispossessed of nearly a third of their rights in the soil, of which tradition, undisputed by their neighbours, depicts them as the paramount rulers at a period by no means distant in the dreamy view of oriental memory. The peasant confesses that he has speculated with the talent he received in the grant of a full proprietary title. He is none the better reconciled to his fate for being told that we reprobate the sharper who has won, at least as much as the yokel he has fleeced, with the help, in the end, of the public tribunals.

The land in India may not be more encumbered than in some European states, or even in America. But the feelings and position of the losers in those countries are not quite the same; and the political features are as far apart as the respective latitudes. The English are not in India to colonize, but to rule; and the class that loses under their rule will assuredly inquire to whom the advantage goes, and why a weak minority is enabled to absorb the fruits which Government will neither take to itself nor leave to those that have laboured to produce them.

Mr. Kensington describes, in his Assessment Report for the

Kharar Tehsil of the Umballa district '1888', the stamp of the new landlords :—

"The villagers have perhaps held their own rather better than was hoped, but large areas have been bought up by the strangest assortment of speculators.

"Bunniah and Kalals of Umballa city, bunniahs from Tehsil Naraingarh, Khatries of Manimajra, a dāk contractor, a meat contractor of Kasuli, members of the ruling families of the Nahan and Kuthar States, and the Deputy-Commissioner's revenue accountant have been among the largest purchasers."

It is added that this galaxy consists almost entirely of absentees. Among these the retired accountant may be safely reckoned. Landlords of this sort are not tempted, as a rule, to live surrounded by their tenants. In the Jagadhri Tehsil already mentioned, a great proportion of the area transferred has been engrossed by a single money-lender, who is, or was, the Government treasurer of an adjoining district.

These extracts have been chosen so as to illustrate the East as well as the Western districts of the province, but parallel results are unpleasantly conspicuous in other settlement records. For details relating to the Central and Southern tracts, Mr. Steedman's Report on the settlement of Jhang may be consulted, which includes a graphic study of agricultural helplessness, or reference may be made to Mr. Purser's analysis of agrarian debt in the fertile district of Jullunder.

Few now-a-days are likely to maintain that—"There is nothing alarming in the extent to which land is being transferred; but that, on the contrary, a natural and healthy process is going on, which should on no account be interfered with."

Mr. Clarke, Deputy Commissioner of Delhi, has pithily remarked :

"If a debtor on being sold up could come upon the rates as in England, the law would never have been so severe."

If the usurer, instead of having his debtors billeted, as custom still provides, on the slender means of their neighbours in distress, were taxed for the support of the district poor, the "healthy process" of land-hunting would receive a natural and speedy check.

The income-tax was to provide a kind of imperial work-house in the name of famine relief. Is it therefore that the self-elected representatives of "the people" demand its restriction now, and will presently, as likely as not, demand its repeal altogether? The "people" represented at Allahabad in December 1888, were the Bunnias, the Khatries, the Kalals, and their motley train of scriveners and attorneys.

So much for the disease. The remedies proposed will very much depend on the view taken of its origin. Mr. Thorburn,

as has been said, appears to lay a great deal at the door of the Revenue system. It is hardly a complete answer to such criticism to say that under any system the cultivator would have plunged into debt with equal recklessness, the fatal gift of the fee-simple in his holding once beyond recall. This is open to the obvious retort that the genius of the husbandman is beside the mark, if it can be shewn that he is forced in fact to borrow on the security of the crop, to pay in advance his Revenue instalment. If the State demand be regarded as a tax, the policy of such a scheme would scarcely stand examination. If on the other hand we adhere to the doctrine of State ownership, then surely a prudent landlord would not drive his tenants half-yearly to the bank to take up money for the settlement of his rent at an exorbitant rate of compound interest.

No choice was possible in the earlier days of British administration in the Punjab. The transition from an absolute hypothecation of field produce to the State was necessarily gradual. There are now, however, many circles, possibly even complete districts, in which the revenue might safely be collected in a lump sum after the proprietors have received their rents, and the tenantry have realized on the revenue-paying crop at each harvest.

A little patient enquiry in this direction would probably be worth a dozen essays on the economic opinions of the Sikhs, or the "good old rule, the simple plan" of the Mahrattas. It is surely illogical to attack the imposition of cash assessments, and the recognition of private rights in land, as if they could be separately reformed. Bad or good, these principles must plainly stand or fall together:—moreover, they apply not to the Punjab only, but to the whole of Western and Northern India as well.

Yet this is precisely what the school, of which Mr. Thorburn is a fervid apostle, habitually preach. It is urged, even while admitting that it is impossible to recede, that the land should not be saddled with a money assessment to begin with, and then the right of property, which the very basis of such assessments postulates, is impeached as if it were an independent and remediable evil.

We have sinned, it is said, in making the *ascriptus glebæ* of the Punjab the proprietor of the clods with which he carries on a life long struggle; granted,—though the premise leaves room for plenty of debate—*Et Après ?*

"I would make it illegal for any person deriving profits from a shop or from money-lending, to acquire any interest in arable or pasture land other than land in the immediate vicinity of a town or large village, or manured and irrigated land anywhere, or irrigated alone, if from a well."

But would not the result of any proceedings of the kind be merely to throw the borrower into the grip of a class who would abuse the power of capital in proportion to the increasing weight of their position? Is there any proof that middlemen, who are not shopkeepers or hereditary money-lenders, would be less odious to the cultivator than the unspeakable Karar? As a matter of fact the recent history of Oudh and of the Eastern Punjab shews, that the proceedings of the great domain-holders are a source of keen and constant irritation to the actual tillers of the soil.

If the peasant cannot bind himself to the Mahajan, he will sell his birthright to the Jagirdar, and the horror of interest, which is alleged to haunt the gentry of the Western border, is by no means shared by their co-religionists in more advanced societies.

There is no law sharp enough to hinder usury, though the prohibition may be fenced with the strongest religious sanction. If the Muslim stickies at the accursed thing, his conscience is promptly salved with the name of "increase" (munafa.) It follows that those who differ from the author of the suggestion just considered, as to the causes of existing evils, will not agree to the remedies which he proposes.

There is, however, a less drastic change which is advocated in the same pages that demands a word, though here, also, it seems impossible to fix the limits of the proposed improvement. It is argued that the system known as that of fluctuating assessment should be widely extended, and applied to different tracts in which the incidence of a fixed land revenue is said to aggravate the burdens of the agricultural community. The essence of a fluctuating assessment is, that the State demand from the husbandman should be regulated from harvest to harvest in proportion to the actual yield of his actual cultivation.

There are various devices for attaining the result aimed at, and these are discussed in some detail by Mr. Thorburn. The most feasible, as far as experiment has shown, is the establishment of a fixed crop rate or rates applied, while the crops are on the ground, by measurement of the area under crop, allowance being made for inferior quality by deductions, expressed in terms of the area sown, on an estimate of average yield, worked under local rules which depend on local conditions. In theory something of the kind would be, perhaps, the beau ideal of land revenue work in Upper India. In practice, two serious obstacles are met, which have not, however, prevented a trial being given to the plan in certain tracts where its introduction seemed especially advisable. It is palpable that any such arrangement sets a premium on laziness among a population given to waiting on Providence

and a 'patriarchal Government; the second difficulty is even greater, for it lies in the persistent, and almost universal opposition of the cultivators themselves to any system which places so much at the discretion of the subordinate official staff, and most of all that precious relic in conservative eyes of indigenous statecraft, the village accountant or Patwari.

There remains for consideration the third main count of Mr. Thorburn's indictment. He abandons, himself, any hope of return to a golden age of agricultural tithes for the support of modern State establishments, and his other schemes for revenue reform appear to have but a secondary connexion with his general aims, and to admit, if at all, of very gradual application. In his desire to improve the working of the judicial machinery where the agriculturist is in danger of being drawn in and crushed by its wheels, he is likely to meet with more general agreement.

The cultivator, in the Courts as they stand, is pitted against the money-lender at such a disadvantage, that the scales of justice may be fairly said to deflect from the balance of equity. The learned Judges of the Chief Court have reiterated warnings to the subordinate judiciary to listen patiently to the peasant's tale of wrong, and not too readily to believe the glib account and smug retort of the practised usurer, armed with a counterful of well concocted ledgers. The fact remains that the debtor goes to the wall, because the subordinate Courts go on mechanically applying the letter of a law which is foreign to the instincts alike of the parties and the Judge, while it affords a perfect magazine of stuff for the exercise of the pettifogger's calling.

This obstacle impairs such suggestions as the first which Mr. Thorburn offers for judicial improvement, namely, that the law should compel the Court to examine plaintiffs before summoning defendants, and further, should confront the parties so as to elicit the ultimate truth. Have the advocates of such a panacea considered the practical effect of the precisely similar safeguard which the criminal law has carefully provided? A Magistrate must, by law, conscientiously and intelligently examine the complainant before he issues process for the appearance of the accused. How many Indian-born Magistrates comply with this provision? How many annual reports does the Recording Angel witness which embody the despairing hope of those set over them that they do comply with it?

Again, there is a proposal that in executing decrees the Court should, in certain cases, make the attached property over to the judgment creditor at a valuation to be fixed by the presiding officer. With the present staff of Munsiffs in the Punjab, this would hardly tend to make things better; for the valuation

would devolve on any shoulders rather than those of the Munsiff himself. What chance of observance is there for elaborate precautions of this kind, when the primary requirement that there should be a note of the essential course of proceedings in execution of decree under the hand of the Judge, is triumphantly ignored by almost every Munsiff in the province? The truth should be faced that all such well-meant attempts at tinkering the lower grades of the judiciary are built on sand. The pay and status of the Munsiffs must be raised, and inducements held out to secure a sufficient leaven from the bar before any material advance in their working can be looked for. For such reforms money is, of course, required; but if the agrarian danger is to be really met, financial reforms cannot be shirked in any case. How to effect these is a question in itself, but this much it is relevant to say, that rather than public justice should be stinted, the money spent out of the local rates on the schooling of the non-agricultural class, might well be turned to more fair and useful purposes.

Is it right or wise to take a sum from the cultivator's store for the public purse, to divide this into two heaps, and then to say—

‘The bigger heap I take away for purposes which you do not altogether comprehend, and the lesser heap I again divide in lesser shares, the biggest of which I will spend in teaching the son of the trader, who is exempt from this particular demand, to write the bonds which you will not be able to read, to read the laws which you cannot understand, or to rise, some day, with luck, to be a judge and divider over you and your children.’

The literate waif is the result of our so-called education, and the mischief worked by the inferior class of pleaders, and the army of touts and petition-writers in many districts is unmistakable.

It is very doubtful, however, if the proposed exclusion of pleaders from Tehsil and Munsiff's Courts, which Mr. Thorburn demands, would be either politic or practicable, yet something in the way of control over the rabble of minor practitioners is sorely wanted. It is publicly asserted that the bench, in many instances, is dominated by the bar.

There are numerous proposals made in “Musulmans and Money-lenders” for improving the law itself; some of these are of a very sweeping character; others have formed the subject of official inquiry. The views stated involve certain statutory changes, one of which, relating to imprisonment for debt, has been substantially, at least, meantime effected: among the other recommendations are these—

I. That cultivators should not be summoned by the Courts at the harvest season;

II. That the Courts should be empowered to fix instalments in the course of executing a decree ;

III. That the power of modifying the award of arbitrators should be restored to all the Courts ;

IV That an estimated subsistence allowance should be fixed for the judgment debtor on attachment of his property, and exempted from attachment or other interference by the holders of decrees against him ;

V. That the period of limitation for certain forms of action should be extended ;

VI. That the Courts should be empowered to go behind the terms of a written contract on which an agriculturist is being sued, to take the whole account from the beginning itself, and give its judgment on the transactions disclosed as if no deed had ever been proved or admitted.

The first and second of these proposals are not likely perhaps to meet with any vigorous opposition. It may be doubted, however, if in actual working, they would result in any extensive benefit to the class which they are intended to protect ; it is little use, for example, fixing instalments for a debtor who persistently fails to understand, that if he wants the Court to help him he must pay his instalment into the hands of the clerk, or move to have adjustment out of Court formally certified.

The third suggestion is a kind of half-way house to a wider scheme of arbitration which will be presently discussed.

The fourth has the recorded support of many revenue officers of weight, and it will only be added here, that the principle, right or wrong is even now not unfrequently applied by the Subordinate Courts in practice.

An important question is raised by the fifth proposal. As to this, Mr. Thomson's arguments at page 1005 of the " Selected Records" require attention. It is impossible to deny the force of these. He says—

" as to extension of limitation, I agree with the opinion stated  
 " by Messrs. Anderson and Grant and hinted by several other  
 " officers, that such an extension might benefit the thrifty, but  
 " would only render the entanglement of others more hopeless  
 " than ever. I do not wonder that the proposed change is  
 " strongly supported by native opinion. The opinions obtained  
 " are mostly those of debtors or of men who are in sympathy with  
 " debtors. All debtors who find difficulty in paying, wel-  
 " come any change that will or may postpone the date of pay-  
 " ment. But whether such a change is to their ultimate advan-  
 " tage, is a very difficult question. In the present case I think  
 " not."

On the other hand the evidence of Mr. Joshi, a legal practitioner and Secretary to the Arbitration Court at Poona, before

the Famine Commission \* gives a common-sense argument on the other side, which daily experience in the Courts tends to confirm. It stands to reason, as the witness is reported to have urged, that if the money-lender has to renew his bond every three years (and this in business is the fruit of the existing law) he will add the interest accrued to the original advance, and charge compound interest on the fresh sum for the fresh period. Thus in twelve years an advance of five Rupees might saddle the ignorant borrower with a debt of sixteen times the original obligation. This result is the more resented by the peasantry where Hindu traditions forcibly survive, because the maxim of the Hindu elders limited the village banker in a simpler and fairly effective way, by closing the account when the interest added up became equal to the principal. The ancient custom is still pleaded at times by some old-fashioned Jat in the British Courts; and it is small wonder if the experiences which undeceive him place the justice of his rulers in an unfavourable light. It is not only in England that "the wisdom of our ancestors" is "a cherished superstition."

The suggestion that the Courts should "go behind the bond," strikes at the root of the whole difficulty.

The highest judicial authority in several provinces,—including the Punjab—has impressed on the Subordinate Courts from time to time, the duty of inquiring strictly and minutely into the circumstances under which acknowledgements may have been obtained from ignorant and helpless debtors; and in successive judgments having the force of law, it has been held that where such a transaction appears to have been coloured with substantial fraud, or tainted by undue influence,—in other words where extortionate or unconscionable conduct by the lender has been proved,—the whole of the dealings should be opened up and an equitable decree entered.

These excellent principles unfortunately remain, so far as the bulk of the Courts of first instance are concerned, a dead letter. It is not within the scope of this article to inquire into the causes of this failure, complex in themselves and involving wide and difficult considerations.

As regards the present remedy there can hardly be a doubt. Nothing will effect the end aimed at within a calculable time, short of the constitution of a special scheme of relief on lines analogous to those already adopted in the case of the Deccan ryots. There are questions of detail with regard to the organization, required, which call in themselves for the most careful working out by qualified experts. For instance; is a

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\* Appendix II, Selected Evidence, p. 81.



special commission necessary to deal with litigation of the kind, or can the working of the proposed measures be properly entrusted to the existing Courts? Again, should Munsiffs and Subordinate Judges continue to take up suits against agrarian debtors of all kinds, subject to appeal or revision by a special Judge? Should decrees against cultivators be made over for execution to the revenue staff? or should this only be done where land is sought to be attached? Do the provisions of the existing Procedure Code vest sufficient powers in the Collector for dealing with such cases? Should Benches be provided for particular areas, either for original disposals, or for appellate work, and the supervision, at first hand, of the subordinate agency?

Perhaps the agency of special commissioners, deputed in the first instance for selected areas, is the most practical course; and their experience might pave the way for the mature consideration of certain of the specific recommendations made from time to time for amending the law governing the execution of decrees and procedure generally. The immediate necessity is to provide relief from the unequal operation of the present laws, where an imprudent borrower has to meet an astute and grasping lender; and this necessity is one that must be met,—justice apart,—on imperative grounds of manifest expediency.

Connected with the establishment of special tribunals is the question of Rural Courts of Village Munsiffs or Panchayats: and this again suggests the point mentioned in Mr. Thorburn's book of Village Registrars. It is necessary, in speaking of Panchayat Courts, to guard against the imputation of wishing to revive a "patriarchal institution" which was tried in the Punjab, and was pronounced to have signally failed, as stated in a minute by Dr. Thornton.\* Dr. Thornton, to copy an epigram of his own, was a lover of all mankind,—except those who ventured to doubt the cosmopolitan efficacy of English middle-class beliefs, and the feasibility of governing by the naked force of codes and circulars.

Without subscribing to his cheerful preference for official agency, even when its inferior quality is the subject of public complaint, it may be safely admitted that the revival of the institution which his minute condemned is inadvisable. The proposals which the advocates of unofficial Judges for petty rural suits are likely now-a-days to make, would give the arbitrating body a status opposed, in material points, to the hybrid Panchayats constituted by the Board of Administration in 1849. The essence of the abandoned scheme was, that the dispute must come in the initial stage before a

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\* Page 894 of the "Selected Records." (Agricultural Indebtedness.)

Stipendiary Judge. The Judge was then to say to the parties as it were, "*nolumus episcopari*;" he was enjoined to treat them to as much as human patience would endure of the law's delays,—and more. But suitors did not fail to see that by a sufficient exercise of that passive obstruction, in which the oriental is a past-master, they could force the hand of the officials, and secure their pound of flesh from the Court itself, bound as it was by hard and fast interpretations of a foreign law which even in its home had always borne so much in favour of the moneyed classes. that the fictions of equity were built up, by the gradual working of the public conscience, to redress it.

The village Munsiff, or the members of a Rural Bench, would start under altogether different auspices. "Conciliation" has failed, it is said, in France; it remains to be seen whether it will yet succeed in South-Western India. It has been justly said that a man does not go into Court to make peace with his opponent, but to get the better of him. It is perfectly consistent with this, that the parties should acquiesce in the decision of a volunteer tribunal. if they are made distinctly to understand that their energies will not be given any other field for their development. It is demonstrable that the average results in petty Civil disputes, to say nothing of a certain class of Criminal cases, in which the time of highly paid officials and the conscience of the people are now being frittered away, would be quite as sound as those that are actually reaped in the annual sheaves of trumpety litigation with which the shelves of district record rooms are heaped to an "admired confusion."

It is easy to point the finger of scorn against the assumed venality or crassness of "the village Minos." But there are two features in the conditions under which a rural Bench would work which are commonly overlooked by such objectors. First, the village tribunal would be subject to an active public opinion at its very elbow, in a way which, in the case of the lower grades of the paid judiciary, is non-existent, or only exists in an unhealthy form. The fiercest light that beats on the proceedings of a remotely situated Munsiff is that supplied to the columns of some obscure or notorious print by a wrathful attorney, whom nobody perhaps would believe even in his truthful intervals. The village patriarch that should give a verdict on the spot against the facts would have an uncomfortable time from the friends at least of the injured party. It may be urged that this involves a certain element of weakness, and that, like other arbitrators, the Rural Courts would be apt to take refuge in the virtual compromise which advocates abhor as piously as nature has been said to abhor a vacuum. It is also true that an infusion of compromise in the upshot of petty litigation is precisely what is called for by the

exigenciés of the case ; at least, if this is disproved, there is an end of the trouble. If Shylock is always to win, then let us go on, in the name of weariness, as we are going now, and leave, the ultimate arbitrament between those that pray their rulers to "look behind the bond," and, those that stand upon the letter of the law,—to the constable's staff, or, if the baton fails, the "ultima ratio regum" from the next cantonment.

The second restraint on the corruption of village Courts lies in the inveterate tendency of the loser to complain, and the wholesome dread of such complaints which regulates the the rustic mind, when they are likely to be preferred by a neighbour.

In Mr. Beighton's recent article \* on judicial matters in Bengal, he complains of the reluctance of Subordinate Magistrates to convict, in cases where resistance is alleged to process-servers. This may be a grievous error in Bengal :—the Punjab Magistracy, however, if similarly arraigned, would plead perhaps that the position of the humblest myrmidon of British justice is so strong, that the presumption against his having been obstructed at all is very weighty. It may not be right to compromise the judicial conscience in such cases by the infliction of a paltry fine, but the administrative lesson to be derived is obvious. The ryot of the Punjab, whatever may be the case with Bengali Zemindars, will seldom, if ever, bring a genuine complaint against the meanest lictor.

For him every thing that goes about with the imperial badge is part and parcel of the irresistible and unrelenting power of constituted authority.

It is, no doubt, possible, by injudicious handling, to turn a useful agency of the kind into a cheap and evil adjunct of the paid machinery of Government ; the most expensive instruments are liable, not equally, but in much greater degree, to be blunted or misapplied, unless properly directed, but it is to be presumed that, if Rural Courts are at any time introduced in the Punjab, the District officers will receive proper instructions and advice for the control of the new agency.

A practical step in this direction might be to ask from each district whether, in selected areas, rural notables or Government pensioners are available for investment with summary powers in certain simple Civil cases, up to say Rs. 50 nominal value. The matter of record should be left to the honorary Judge, *provided always that if he keeps a record at all, it must be with his own hand*, and that in no case is he to entertain a subordinate writer. Where a bench was constituted for a circle of villages, such for instance as a Zail, the record of

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\* *Calcutta Review*, No. CLXXV. for January 1889.

decrees, which must of course be brief and need not be artistic, might be entered in the diary of the village accountant of the circle in which the parties reside,—and in the case of residence in separate agricultural circles,—then in the diaries of both,—on the day of decision.

Appeal there should be none ; but Deputy Commissioners, (not District Judges at first), should be empowered to reverse or modify the order of a bench or Rural Munsiff, on cause shewn, upon petition stamped at a fixed fee. The relief to Munsiffs' Courts would be patent before long ; and if, where the local authorities were prepared to try it, the higher powers, after the experiment, believed it had not met with due success, retreat in time is always possible.

The mention of Patwaries leads to the registration question, and it is surely an obvious criticism on any scheme of compulsory notarial validation of rural indentures, that the natural agency,—the only agency that could in fact at present be worked to the end desired—is that of the village Registrar of land assurances. The present writer hopes to see the cumbrous and not always reputable " Sub-Registry " give place, in time, to the natural and convenient course of Revenue Record ; meanwhile he would not " encourage " the cultivator to admit in one place what he is afraid to deny, as it is, in another. It seems to have been forgotten that the usurer will only take his debtor before the notary when the debtor is duly worked up to the confessing point, and the Patwari would not be invoked until this point was arrived at.

In recording the proceedings of an independent body, his agency is safe enough. The situation is entirely changed when the Patwari himself is dressed in even the briefest robes of separate authority.

But, it may be said, when you have got your Rural Courts,—and all the rest of it, what have you gained ? You compel the usurer to sue for his fifty rupees,—before he can mature a heavier balance,—to the best of your power ; and what will happen ? Will he not quickly take his Bahi ( debt ledger ) and write rupees fifty-one as the first admitted balance ? In cases he will, but the cases, in which he will refrain, are worth providing for.

The argument, however, brings the ultimate difficulty once more to the front, and it is hard to see how the evil, if it be a real and pressing evil, can be fairly remedied without recourse to special legislation ; such legislation must provide a specially competent class of judges, and must be expressly directed to the due and equitable application of the rules of evidence and common sense to the special cases which arise, where agriculturists are concerned in contracts that tend to be

one-sided to a mischievous and oppressive degree. In order to apply the law in cases of the kind, the knowledge of agricultural facts and rural conditions, which a settlement officer for example ought to acquire, is probably essential. But a knowledge of law, and appreciation of its general principles by the revising authority at least, is equally demanded, if the special procedure is to command respect or work evenly. It may not be easy to find the material for the proposed improvements. But this, like other difficulties of the kind, can be overcome.

An *amende* is called for to the author of "Musulmans and Money-lenders" for the use made of his book. The best is to acknowledge that without its aid the discussion of the subject here would hardly have been possible. The writer bows to the superior authority of Mr. Thorburn on many matters of opinion and experience, and if in the course of argument, differences have appeared, these should be attributed to an earnest desire to reach the ultimate object which the advocate of the Western Punjab has had so much at heart, by direct and practicable roads for the body of the cultivators in the Province.

There are several matters which he has dealt with that have not been here discussed for want of space. There are other matters, not mentioned in his work, and beyond the scope of the present treatment, that the same cause has excluded. It has been thought advisable to confine attention to those leading contributions to this vital problem which can be properly discussed,—namely, Mr. Thorburn's volume, and the latest official summary of the case that has been communicated to the public.

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#### ART. IV.—SOCIAL IMPROVEMENTS PAST AND FUTURE.

**D**URING the last fifteen or twenty years many noticeable changes have taken place in the social life of Englishmen in India. Some of these changes are decidedly for the better, and may be clearly traced to the march of intellect and civilization ; while a few—very regrettable ones—are undoubtedly due to the depreciation of that important factor in Indian life, the rupee, and the consequent changes in some of the salient features of station life. The fall in the price of silver has dealt a death-blow to the open-hearted hospitality of former years, and deprived Indian social life of one of its chief attractions. This would be more severely felt than it is, but for the greatly increased facility in travelling which renders it unnecessary for travellers to depend upon the chance hospitality of their countrymen. Thus, although railway extension, road-making, and the general opening out of the country has brought people much more together, it has also provided the means of greater independence. The Dāk Bungalows now provide accommodation for many who in by-gone days would have been obliged to ask shelter from strangers.

Increased facilities for coming to, and for escaping from India have brought a large number of Englishmen to the country, and, as a matter of course, a greater amount of refinement into every-day life, and the intellectual, or more properly speaking, the educational wave that has swept over Europe, although it has not actually reached us, has had its effect in softening and toning down many of the worse features of Anglo-Indian society. The educational question is one of vast importance, not only in Europe but in India. Every schoolboy or girl becomes either a creditable or discreditable member of society, and the presence of an increased number of members whose education is below par, will check any further improvement and lower the tone of general society.

It is possible that mere brain culture has been carried too far in Europe, and that physical fitness for the duties of life is being sacrificed to it. The cramming system is particularly unsuited to men who have to face the common everyday difficulties of Indian official life, and a Girton girl is not likely to make an efficient leader of society ; still, they have a better chance of succeeding in life than those who have received the best education obtainable in India. When the many disadvantages under which Indian schools are carried on are

considered, it will not be a matter of surprise that the results fall short of those obtained from schools which suffer from no such disadvantages. The scholars are drawn from a very mixed community, and as a rule receive little or no training before being sent to school. In England children are sent to preparatory schools and brought under control at an early age, but in India there are no facilities for removing them from the evil influences which surround them from their birth, and they are not sent to school until it becomes absolutely necessary. In large Presidency towns this difficulty is of course removed, but as the majority of scholars are boarders from other parts of the country, who have received no training except such as their parents gave them, the teachers must necessarily labour under great disadvantages. Besides this, the constitutions of the children are not equal to the strain necessary to attain a high state of proficiency, and their studies are frequently interrupted by petty ailments, and difficulties that do not arise in Europe, chiefly the result of climate, want of strength and energy, and bad tone acquired from association with native servants.

One great mistake is made in the education of girls both at Home and in India. While at school their time is fully occupied with the ordinary routine of school studies, which includes a very superficial knowledge of general literature. From the time they leave school, all their studies are discontinued and they at once enter society. No time is allowed for the cultivation of their minds, although there are many hours in the day which could be devoted to that purpose. In India there is very little to occupy their time. Household duties are left to the mother of the family, or disposed of in a very short time. A durzee does the sewing of the family; and the station library, if they live in a moderately large station, supplies them with the means of killing the hours until the evening amusements begin. To be old enough to leave school and to be old enough to be married are synonymous terms, and if a girl is taught to consider marriage as the aim and object of her life, she will live down to that aim, and not try to raise herself above it. The accomplishments that are supposed to be most attractive will be cultivated; music, painting and dancing will not be neglected until the object is secured; but more solid attainments will never be allowed to occupy her time, although by devoting a few otherwise idle hours to them, she could fit herself for the position she aims at far more effectually than by idling them away over novels.

If the daughters of the family are pretty and attractive in appearance, they are sure to receive an amount of attention that justifies their parents in believing them to be all they can

desire, and no further improvement is considered necessary. But a few years rubs the gilt off the gingerbread: the beauty fades, the attraction becomes less and less, and they have nothing to fall back upon. If they marry—as many do—when they are much too young to undertake the responsibilities of married life, they either break down under the weight of family cares and become prematurely old and careworn, absorbed in the daily worry of children and servants, unable to spare the time to make themselves or their homes attractive to their husbands; or they neglect those duties entirely, and lead frivolous and unprofitable lives, caring only for excitement and dress. In either case the gilt is soon rubbed off, the bloom is gone, and they settle down into the ordinary member of Anglo-Indian society, who sips her tea and talks scandal, or discourses volubly upon the subjects of babies and bazzaring, or the short-comings of her servants and neighbours.

It is by no means an unusual sight to see the ladies of a station collected in one part of an amusement club, and the gentlemen in another. It speaks volumes for the entertaining powers of the ladies. They resent it and lay the blame on the unsociability or unappreciativeness of the other sex, but the fault really lies with themselves. The reason of this unsatisfactory state of affairs is obvious; men naturally seek some means of amusing themselves during the few hours they can spare from their work and it is no amusement to them to sit and listen to the fatally monotonous conversations that form the usual amusement in the ladies' room. Even the society of a pretty woman palls upon her admirers, if she has no intellectual storehouse to fall back upon (unless indeed the admirers are also void of understanding), when the small, alas, the very small talk of every day life is exhausted. Common objects of interest are rare between a well-educated man and the average woman of station society, and the percentage of well-educated men being greater than that of well-educated women, tends to encourage them in seeking their amusements amongst their fellow-men. A man may be very partial to ladies' society, but he will hardly care to sit and talk to them every day, while his companions are enjoying their billiards and whist, and thus they are again placed at a disadvantage. The average woman is not an entertaining companion if she has nothing to depend on but her conversational powers, as is generally the case, whereas the average man is very often a good whist player, or a worthy antagonist at billiards, and it matters very little whether his intellect is above or below that of his fellow-players during the short time they are together.

The obvious remedy for this unappreciativeness on the part of the men lies in the cultivation of subjects of mutual interest,



above all, in the cultivation of the intellectual powers of the rising generation of wives and mothers. The days are past when women were highly prized simply because they were scarce in the land ; if they want to regain their supremacy, they must make a vigorous effort to meet the demand for higher education, and greater mental capacity ; they must endeavour to take an intelligent interest in subjects of general discussion, and if possible, join in such recreations as are admissible. A fair knowledge of games of skill, such as whist, chess, and various others, is invaluable to a woman, and an intimate acquaintance with the current literature of the day an absolute necessity, if she wishes to become the friend and associate of men of intellect and culture. As long as a girl's education stops short at a fair knowledge of the school text-books and the usual accomplishments of a little music, a little singing, and a little drawing and painting, and does not include the higher branches of education and a course of good reading, so long will the ladies sit in rows or groups and grumble at the discourtesy of the gentlemen in leaving them to themselves. Mutual friends and acquaintances are connecting links between people who meet for the first time, and an acquaintance with the friends of our youth, even though those friends existed only in books, leads to many pleasant talks that are a refreshing change from the chit-chat of everyday life. A well-read woman who can converse easily on most of the topics of the day, and understand the allusions that are made to either real or fictitious characters in the past, rarely has occasion to complain of the unappreciativeness of her friends and acquaintances.

Without some knowledge of English literature the many good articles that appear in the magazines are unintelligible, and even the daily papers teem with allusions that are lost upon the readers who are unacquainted with the standard works of their own country. Past characters, whether real or fictitious, are constantly mentioned in conversation, and to be ignorant of them, places those who wish to join in it at great disadvantage, and gives rise to some curious mistakes.

"Isn't Mary Lamb the actress they are making such a fuss about in England just now?" was asked by a young girl who heard the name mentioned, and who was supposed to be well educated and a "great reader," as her fond mother constantly remarked. No doubt she spoke the truth ; her daughter, like many of her contemporaries, was a great reader. She read every novel she could find on the library shelves, or borrow from her friends, she devoured the serial tales in every periodical, and forgot what she had read as quickly as we forget the meals that satisfy our hungry craving for

food. Even as those meals, if unwholesome, leave their mark on our digestive organs, so this unwholesome style of reading leaves its mark on those who indulge in it.

It would be unreasonable to expect general conversation to be always intellectual, or bookish, but it is not unreasonable to expect everyone to bring a certain amount of intelligent interest into the ordinary topics of the day. The small talk of some people is charming, and the woman who possesses, even in a moderate degree, the art of conversation, and can talk comprehensively and well on the various questions of the moment, is a greater and more lasting success than the one who can look pretty, sing sweetly, or dance divinely—but whose “candle of understanding” has never been lit. There is no lack of opportunity for those who wish to cultivate their minds and keep themselves abreast of the times. The library shelves contain many standard works, many biographies and travels that are full of interest for anyone who has a soul above novels and the magazines and papers supply excellent articles on all manner of subjects—literature, science, astronomy, natural history—there is hardly any branch of knowledge that does not afford food for the best periodicals and papers of the present age. It is the energy to take advantage of the opportunities that is lacking. The “girls of the period,” and the women too, pass by the shelves where the “dry” books are, and eagerly scan those where the latest sensational novels are to be found. The daily papers are glanced through, and a few crumbs of information gathered. Domestic occurrences, trifling correspondence, appointments and promotions come first, then the murders and divorce cases—and they are thrown aside. The pages of the magazines are turned over until the serial tales are found, and the rest is pronounced to be too dry and uninteresting to read. The consequence of this mere skimming is that those who indulge in the habit never have anything to talk about, and when the conversation turns on any of the questions that are being discussed in the papers, they are unable to join in, or to understand it.

That “a little leaven leaveneth the whole lump” is true enough in some cases, but not where the leaven is a small number of men and women who desire to raise the standard of female education and make women what they ought to be—intelligent friends and companions to the more highly educated members of society, and the lump is a large and mixed community who believe themselves to be fully educated and have no comprehension of the need of the leavening process, either for themselves or their children. The encraving effects of the climate are in favour of the “whole lump,” and the

"little leaven" will always be in the minority, for the "lump" is rapidly increasing in size, owing to the difficulty now experienced in sending children to Europe for their education.

A steady reduction in income induces a corresponding reduction in expenditure, and every year the effect of this diminution becomes more apparent, and society suffers proportionately. The children of European parents used almost invariably to be sent to Europe for their education and training, and returned to India with minds and bodies braced and strengthened—well fitted to fill the position occupied by their parents. Owing to the depreciation of the rupee and the increased expense of remitting money to Europe, many people are now reluctantly compelled to keep their children in India, and to trust to the Hills Schools for their education. Without wishing in any way to depreciate the efforts of those who are endeavouring to raise the standard of Indian schools, it is impossible to shut one's eyes to the fact that as yet boys educated in India cannot compete successfully with those who have been trained at first class European schools, and that the girls are not sufficiently highly educated and trained, to enable them to enter society on equal terms with those who return to India after many years of European training. It is not possible that youths and young girls brought up entirely in such a country as India, can possess the same amount of physical and moral backbone as those who have the advantages of a cold climate and a healthy moral atmosphere. Even if they are energetic enough, and are strong enough constitutionally to make the most of the education obtainable, they must fall short of the standard obtainable in Europe.

The effect of this rapid increase in the numbers of denationalized Europeans is already apparent in society, and before long will probably give rise to a more serious change. The various services that have hitherto been recruited largely from the families of Anglo-Indian officers, will have to be supplied with fresh recruits from England (to the exclusion of the sons of Anglo-Indians who remain in the country) or the Indian Government will have to be content with a lower class of officers. In the latter case the services will become less efficient, in the former the unemployed, denationalized Europeans, will increase and multiply, and become a thorn in the side of Government, even as the Eurasian question has been. The policy of reduction that has been steadily carried out of late years has pressed cruelly on the already over-burdened Anglo-Indian officers, and will bear bitter fruit in the future. Each succeeding generation will take a lower position than the former one, and a large class will gradually be formed who are unfitted by birth and association to live like

natives on low salaries, and unable to fill the position that would enable them to earn higher ones.

The idea of forming new schools of a higher class, where this rising generation can be as well trained as in England, is an attempt in the right direction, but can we hope it will succeed? Some parents try to ignore the difficulties in the way, and wilfully shut their eyes to the fact that the result of past efforts has not been very successful. They try to persuade themselves that their sons and daughters are quite equal in all points to those who come out fresh from Europe; some may have good reason to think so, but the generality of European parents are painfully conscious of the difference that exists between the Home, and the Indian training, and the disadvantage men and women who have been brought up in India labour under, of being unable to enter into and comprehend the inner life of their own countrymen. What English man, or woman realizes what India is like until they have lived in the country? They may read numberless books about it, listen to personal experiences, descriptions and explanations, and yet retain the vaguest and most erroneous ideas about it. It is just the same with those who are brought up in India; they may listen to long accounts of the mother-country hear daily conversations, the burden of which is "Home, sweet Home," they may read a vast number of books of fiction, many of which contain true and life-like descriptions of English home, and society life, and in the end they know as little of England as the freshest Griff does of India. How then can they enter into the thoughts, ways and feelings of those who are still thoroughly English?—and how can their children prevent the boundary line that separates them from their purely European countrymen from becoming more clearly defined, and more difficult to cross than it is at present?

Besides this gradual change in its component parts, society is affected in another way by the present ruinous rate of exchange. The Europeans who still continue to send their families to Europe find it necessary to curtail their Indian expenditure, in order to meet the extra expense of remitting money to Europe, and are unable to entertain to the same extent as formerly. Many of the stations that used to be noted for their gaiety and hospitality, have lost that reputation entirely, and others have fallen off to a great extent, simply because the leading families find it impossible to expend a fair proportion of their income on entertaining their friends and neighbours, and making life pleasant and bright for all around them, when such an unfair proportion of their earnings is required for their home remittances. The subscriptions that used to be paid freely and willingly for races, balls, and

entertainments of various kinds, are now reluctantly reduced, or in many cases entirely withheld, not from free-will, but from necessity.

In other respects great improvements have taken place in Indian social life. Drinking and gambling have decreased in a marked degree, and rowdyism is rarely tolerated even amongst those who used formerly to consider no social gathering complete without its accompaniment of rough play and heavy drinking. The presence of a greater number of ladies has had a reforming influence on all grades of society, and brought a large amount of domestic comfort into the country. There are undoubtedly a great number of neutral-tinted members of society, who exercise no visible influence either for good or bad, but there are many others whose influence is very considerable, and if it is exerted in endeavouring to raise the tone of society, the retrograde movement that is inevitable—unless a determined effort is made to check the superficial and unsatisfactory system of training now prevailing in India—may be retarded. Intellectual progress is advancing steadily in all civilized countries, and if Englishmen—and especially Englishwomen in India, do not wish to see themselves and their children distanced in the race, they must march with the times.

ESME.

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## ART. V.—THE APPORTIONMENT OF COMPENSATION IN LAND ACQUISITION PROCEEDINGS.

THE acquisition of land for public purposes is mainly dealt with in the Land Acquisition Act, X of 1870. The two objects are, to ascertain the value of the land acquired, and then to divide the compensation among the persons from whom the land is taken. With the former object, to which the law devotes ample consideration, this paper is not concerned except incidentally ; but the second object, which equally affects each person interested, has received but little notice. In administering the law the Courts have found it necessary to lay down principles of apportionment, and I propose now to examine them and consider what are the principles according to which the compensation should be apportioned. Apart from its legal aspect, this subject is one of some general interest where schemes of public improvement are advocated.

The principles laid down by the High Courts are clearly set out in Mr. Beverley's Treatise on the Land Acquisition Acts. I venture, however, to think (with all deference to the learned Judges who have enunciated them) that those principles fail to deal completely with the subject as a whole, and that, even so far as they go, they do not readily admit of reconciliation and application. Were the questions involved simply those of law, I should hesitate to offer criticism on principles expounded by the ablest Judges ; but in truth the questions are not questions of law, for the whole of the law on this subject is contained in two short sections which prescribe merely the procedure to be followed. The subject is really one for common sense to solve, aided by an acquaintance with the land system of the country. Such an acquaintance few would deny to be indispensable : it is scarcely possible to apportion compensation among the owners of land, unless one understands their tenure of the land.\* In

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\* The expansion of tenant right effected by the Bengal Tenancy Act of 1885 has made the work of land acquisition officers more difficult and complicated. In many points they have neither statute-law nor case-law to guide them, and as the Reviewer points out, what case-law there is does not admit of reconciliation. Some revised rules under section 59 of the Act are now under the consideration of the Bengal Government. Even ryots holding under unexpired leases, and not having rights of occupancy, are "persons interested" in the land, and entitled to share in the compensation.—ED.

this essay I have attempted\* an exposition which has been arrived at after some experience at least both in the settlement and also in the acquisition of land.

The earlier cases decided by the Calcutta High Court involve disputes as to the apportionment between zamindars and patnidars, and their simplicity is no doubt due to the fact that, until recent years, the rights of but few tenure-holders were noticed by the law. Advancing prosperity in Bengal has, I believe, given a strong impetus to the practice of subinfeudation, and has greatly augmented the number and variety of the lower tenures. The task of apportioning compensation now-a-days is not a simple one, especially when land is acquired in thriving towns where it is much in demand. The later rulings recognise the complexity of the rights involved, but all the rulings together are but few.

In the earliest and one of the leading cases, \* the principle was thus expressed in 1860 :—"The zamindar and patnidar are entitled to compensation in proportion to the losses which they respectively sustain from the appropriation of their lands, and to the remission of the rents which they pay respectively to the Government or the zamindar. . . . With regard to compensation, the principle may most conveniently be stated as follows,—As the gross profits of the patni are to the profits of the patnidar, so will the gross compensation be to the portion of the compensation the patnidar is entitled to recover." Now I venture to submit that this formula, stated merely in this shape, would prove inequitable at the present time by reason of the method of ascertaining the compensation.

In one of the leading cases † regarding the *ascertainment* of the compensation, it was laid down in 1876 that to capitalize the present rental of the property at so many years' purchase was not always a fair way of arriving at the market value, but that the fairest and most favourable principle of compensation to the owners was to enquire, "what is the market value of the property, not according to its present disposition, but laid out in the most lucrative and advantageous way in which the owners could dispose of it" ‡ It seldom happens that property

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\* *Sreenath Mookerjee v. Maharaja Mahatap Chand Bahadoor* (S. D. A., 1860, 326)

† *Prem Chand Bural v. Collector of Calcutta* (I. L. R., 2 Cal., 103.)

‡ This principle is sound, but it requires to be applied with great care and discernment, for, as Mr. Beverley very justly observes, "in calculating the value of the land as laid out to the best advantage, the cost of so laying it out would have to be taken into consideration on the other side." Customs, habits and prejudices would also require attention, for the most lucrative disposition might not commend itself to owners except at the trial in Court. Besides which, the law of supply and demand should not be disregarded, for the most lucrative disposition theoretically may not be actually realizable.

is so utilized as to bring in the utmost possible profit, for if it is in the occupation of raiyats, the raiyats may be paying light rents, or if it is otherwise used, all of it may not be utilized in the most lucrative way; hence the compensation estimated in this way will generally exceed the capitalized value of the actual profits. This excess may be designated "estimated excess value," and deserves more attention in the business of apportionment than it appears to have received.

Now according to the above formula of apportionment both the zamindar and the patnidar would share in this "estimated excess value." Thus, if *A*, a lakhiraj zamindar, has leased out an estate to a patnidar *B* at a rental of Rs. 200, and *B* receives an income of Rs. 600 from it, their profits are Rs. 200 and Rs. 400 respectively, and their shares of the total profit are one-third and two-thirds respectively. But suppose that the estate might be so used as to bring in an income of Rs. 800, then according to the above formula their portions would be one-third and two-thirds respectively of the *higher* compensation. But since a patni is a permanent tenure at a fixed rental, it is manifest that the zamindar never could get a larger profit than the Rs. 200; whereas the patnidar is really the person who can put the land to its utmost use, and could appropriate the whole excess income. The formula thus gives the zamindar a portion of the compensation that he is not entitled to, and deprives the patnidar of the same. It seems therefore faulty in the bare shape in which it is stated.

In another case \* it was held in 1863 that "the principle, upon which the amount of compensation is divisible amongst the zamindar and the holders of several subordinate tenures, is . . . . . to ascertain the value of the interest of each holder of a tenure, and to give him a sum equivalent to the purchase-money of such interest." This principle is somewhat different from that first mentioned and appears to be correct. It was re-enunciated in a case † in 1873. The compensation "ought to be apportioned between the parties according to the value of the interest which each of them parts with. The zamindar has a right to the fixed rent, and the loss he sustains is of so much of his rent. Any other possible injury, such as the chance of the patnidar throwing up the land, and its being diminished in value by what has been taken by Government, and still remaining, as it did, liable to pay the same revenue is, we think, not appreciable and cannot be taken into account."

But this decision was controverted in a later case ‡ in 1881,

\*Gordon, Stuart & Co. v. Maharaja Mohatab Chand Bahadoor (Marsh. 490.)

† Raye Kissory Dasse v Nilcant Day (20 W. R., 370)

‡ Godadhar Dass v. Dhunput Sing (1 L.R., 7 Cal., 585).



when it was held—"As regards the zamindar, it is a mistake to suppose that his interest in the land is confined entirely to the rent which he receives from the patnidar . . . . . There is no doubt that in all cases the zamindar is entitled to some compensation (small though it be) for the loss of his rights. At any rate, he would generally be entitled to receive at least as much as the patnidar." Such a method of equal apportionment is no doubt simple, but it surely takes little account of the facts. Where this method was adopted in a subsequent case,\* the High Court in 1887 dissented from it and remarked—"It seems to us that no general principle can be laid down applicable to every case as between zamindar and patnidar. The apportionment between the zamindar and patnidar will depend partly on the sum paid as bonus for the patni, and the relation that it bore to the probable value of the property, and partly on the amount of rent payable to the zamindar, and also the actual proceeds from the cultivating tenants or under-tenants."

From this brief statement of the decisions arrived at by the High Court it appears that the learned Judges have differed greatly, that no general principle has been established, and that the latest ruling leaves every case to be decided according to the facts, special regard being had to salami and rents. It seems to me, however, that such a conclusion must be defective, and that the whole matter cannot be involved in such chaos that no principle can be discovered. I now offer the conclusions to which I have been led after giving the subject careful consideration for some years past.

The question then, how should the compensation be apportioned, must obviously be answered thus: the apportionment must be proportionate to the several interests in the land; that is, since the interests are valued according to the profits to be obtained therefrom, the compensation must be divided among the claimants in sums proportionate to the profits that the several claimants derive (or, may derive) from the land.

But, stated merely in this shape, the principle resembles that laid down in the first case I have referred to, and is open to much the same objection. Besides which, it is not always capable of immediate application, for not every claimant's profit can be ascertained at once. Where the claimant is a middle-man, receiving a fixed rent and paying a fixed rent, his profit is of course the difference between the two rents. The necessary information regarding the rents (or the requisite data from which the information can be deduced, as where

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\* *Banwari Lall Chowdhry v. Burnomoyi Dassee* (I.L.R., 14 Cal., 749).

the area acquired is a portion only of a larger estate) can always be furnished without difficulty by claimants of that kind ; and were the apportionment to be made among such claimants only, the process would be merely a rule-of-three sum. But, since the total compensation awarded rarely agrees with the gross rental paid by the lowest occupants, and generally exceeds it by what I have above designated the "estimated excess value," there is some uncertainty as to what profit the lowest claimant gets. The principle therefore needs further elucidation.

The value of land is determined by the profit it yields ; and the price must be such that the profit derived from the land will constitute a fair interest upon the price. This is ordinarily expressed by saying, that the price of land is reckoned at so many years' capitalized rent, the number of years being approximately the number of times by which 'capital' is a multiple of its ordinary 'interest.' Thus, if the rate of interest is five per cent., the interest is one-twentieth of the capital, and the number of years for capitalizing rent would be twenty. Hence, if land yields a profit of Rs. 100 yearly, and the measure of capitalization is twenty years, its price would be Rs. 2,000. This computation holds good whether the land is bought with all its rights complete, or whether it is bought with only a portion of its rights ; the value is in both cases regulated by the profit to be gained from the rights acquired.

The principle therefore may be re-stated thus :—each claimant is entitled to receive the capitalized value of the profit that he obtains (or may obtain) from the land. Where each gets the capitalized value of his profit, it is obvious that the apportionment is proportionate to the profits. But we have still to consider who is to get the "estimated excess value."

In apportioning the compensation on this principle, the profit to be considered is the *net* profit ; thus, if a claimant receives Rs 100 rent from his sub-tenant and pays Rs. 60 to his superior landlord, his profit is only Rs. 40, (omitting any deduction on account of expenses of collection). He is entitled to get the capitalized value of this Rs. 40 profit ; for, if he sold his property in the open market, he could always get this price ordinarily, and to give him less would be to defraud him. Is he, however, entitled to anything more, (excluding, of course, the extra 15 per cent. that he must necessarily get under the law)? I have already explained that there is no uncertainty about the profit until we descend to the lowest grades of claimants ; but at that stage there is generally the wide gap where the "estimated excess value" comes in. The question then arises, what should the lowest claimant get ?

The profit of the superior claimants is fixed, for the rent they receive and the rent they pay are both fixed, and there

is no place for variation. But the lowest claimant has only one limit fixed, *viz.*, the rent that he has to pay ; whereas what he receives (or rather, what he may receive if he chooses to exercise his full power over the land) is the utmost produce that the land is capable of yielding. Since this utmost produce is what determines the total compensation, and the superior claimants participate in merely what the lowest claimant pays, it is but just that the lowest claimant should get the whole sum *minus* the capitalized value of the rent he pays to his superior landlord, that is, the total compensation *minus* the compensation awarded to the other claimants. It follows, therefore, that the superior claimants have no right to any share in the "estimated excess value," and that they are not entitled to anything more than the capitalized value of their actual profits.

It thus appears that the principle is a fair and just one for all the claimants, and it may be finally stated thus: each claimant must get the capitalized value of his net profit, whether it be actual profit or the profit that he is legally entitled to according to his full rights; that is, of his net profit, actual or potential.

It may be convenient for the sake of clearness to sum up the grounds on which this principle rests. They are these :—

- (1.) The total compensation (however it may have been ascertained) almost always exceeds the capitalized value of the present gross profits from the land, and it may be treated as consisting of two portions, first the capitalized value of those gross profits, and secondly, the "estimated excess value." \*
- (2.) Each claimant is entitled to receive at least the capitalized value of his net profit.
- (3.) The "estimated excess value" must be divided among those persons in whose hands lies the power to exact the utmost yield from the land.
- (4.) Those persons whose profit consists in the receipt of a fixed and unenhanceable rent, subject to the payment of a similar rent, have no power to exact more, and cannot therefore claim a share in the "estimated excess value."

An illustration will make this principle clear. *A* is a zamindar who pays a Government revenue of Rs. 50, and

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\* This is the result of the Bural case of 1876 above cited (I. L. R., 2 Cal., 103.) The estimated excess value depends on the "discretion" of the Court and assessors, and is sometimes enormous.

who has sub-let his estate to a patnidar *B* at a rental of Rs. 340. *B* has again sub-let to two dar-patnidars *C* and *D* at rentals of Rs. 400 and Rs. 170 respectively. *C* and *D* collect rents of Rs. 600 and Rs. 240 respectively from raiyats, who (we will suppose) possess no rights entitling them to share in the compensation, but who do not pay rack-rents. Suppose the rack-rentals of *C* and *D*'s lands would be Rs. 700 and Rs. 300 respectively, and the compensation is awarded upon them at 20 years' value. *C*'s land then is worth Rs. 14,000 and *D*'s land Rs. 6,000 and the total compensation thus is Rs. 20,000. The actual profits that these various persons get are these (omitting the requisite deductions for collection expenses):—

Government ...	...	Rs. 50
Zamindar <i>A</i> ...	...	Rs. (340—50), <i>i. e.</i> Rs. 290
Patnidar <i>B</i> ...	...	Rs. (400+170—340), <i>i. e.</i> Rs. 230
Dar patnidar <i>C</i> ...	...	Rs. (600—400), <i>i. e.</i> Rs. 200
Do. <i>D</i> ...	...	Rs. (240—170), <i>i. e.</i> Rs. 70

Now the profit that the Government and *A* and *B* get are fixed unalterably, for the estate, the patni and the dar-patni are all held permanently at fixed and unenhanceable rentals. But *C* and *D*'s profits are not fixed, for, if they chose, they might rack-rent their lands and get the full profits of Rs. (700—400), *i. e.*, Rs. 300, and Rs. (300—170), *i. e.*, Rs. 130 respectively. At the same time they cannot be called upon to pay more than Rs. 400 and Rs. 170 respectively, and the total rent both pay, Rs. 570, is all that the Government, *A* and *B* can divide among themselves. Clearly, therefore, all the compensation that the Government, *A* and *B* can get is the capitalized value of Rs. 570, and all the balance of the compensation must go to *C* and *D*. Capitalizing all these profits, the apportionment would be made thus:—

Government, profit Rs.	50,	capitalized value Rs.	1,000
<i>A</i> "	290	"                   "	5,800
<i>B</i> "	230	"                   "	4,600
<i>C</i> "	300	"                   "	6,000
<i>D</i> "	130	"                   "	2,600

Total compensation Rs. 20 000

In practice, however, these figures would need to be corrected by deducting the collection expenses from the foregoing profits, if necessary.

The application of the principle is not, however, so simple and easy as the foregoing exposition would indicate, for, in so stating it, I have supposed all the claimants to possess

permanent rights in the land at fixed rentals. Superior claimants almost invariably possess such tenures, but the lowest grades of tenants do not always possess such rights or such rentals. In such cases there is a conflict between actual profits and potential profits, which needs careful discrimination.

Where a claimant's (say *Y*'s) rights are not permanent (as when his tenure is for a term of years which has still some time to run), or his rental is liable to enhancement, his superior landlord (say *Z*) has a power of interference, and is able (theoretically at least) to demand a larger share of the profits than he gets at the existing rental. In such cases, therefore, the word 'profit' does not mean merely the existing profit, but must be taken to mean the profit that, on a consideration of the present and prospective conditions, the claimants might reasonably obtain. *Z* therefore would not be limited to the profit that he actually obtains at the present time, but would be entitled to claim in the apportionment some share of the profit that *Y* enjoys now; and *Y* would not be entitled to the capitalized value of all his present profit, but to something less.

How, then, is the apportionment to be determined between such claimants? These are the cases that will present the greatest difficulty. In answering this question, it will be convenient to deal separately with the two classes of variable rights above-mentioned; there may be others perhaps.

Let us first consider the case of those claimants who have a permanent right but not a fixed rental; such as the great body of occupancy raiyats whose rents are liable to enhancement, and who hold under an owner possessing a permanent right and paying a fixed rent. How is the compensation to be apportioned between him and them with regard to the right that he has of enhancing their rents? Clearly, it must be done with reference to the provisions of the Rent Law relating to the enhancement of rent.\* For (to continue the same designations) *Z*'s claim to greater compensation is based on the fact that he can legally sue to enhance *Y*'s rent, and the quantity of his extra compensation must obviously depend on the degree to which he can enhance. If it be objected that the Court must then practically decide a number of enhancement suits in the apportionment proceedings, the answer can only be—"True; that must be done if such questions are raised. How else can the disputes be decided? Now that the law has bestowed rights where none were formerly recognized, and jealously safeguards the rights of all, the apportionment of compensation brings into issue all the rights of every one,

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\* In Bengal the Bengal Tenancy Act of 1885, ss. 27—37.

and the proceedings are no longer as simple as they used to be."

Thus, suppose *Y*, an occupancy raiyat, pays a rental of Rs. 24 to *Z*, a patnidar, and that *Y*'s land is worth Rs. 720, equivalent (say) to the capitalized value of a yearly profit of Rs. 36. The dispute would relate to the apportionment of the compensation for the Rs. (36—24) rent, *i. e.*, Rs. 240. Suppose the Court considers that *Z* might fairly obtain an enhanced rent of Rs. 26, that is, an increase of Rs. 2. *Z* then might get the capitalized value of the Rs. 2, that is Rs. 40, and *Y* that of the remaining Rs. 10, that is Rs. 200. Or, considering that *Z* could not ordinarily get the enhanced rent except after considerable trouble, contest, and delay, the Court might equitably in its discretion award *Z* something less than Rs. 40; but considerations of this sort would depend on local circumstances, and no rule can be laid down beyond saying that, the more difficult it would be for *Z* to enhance his raiyat's rents, the less extra compensation should the Court give him.

In the other case, where the raiyat's (*Y*'s) rights are not permanent (as where his tenure is for a term of years, which has still some time to run), *Y*'s interest is virtually a terminable annuity of the value of his net profit, and his compensation must be fixed at the present purchase price of such an annuity for so many years as are still to run; and *Z* is entitled to get the rest of the amount in dispute between them. Such computations are dealt with in Treatises on Arithmetic. And it must be noted, in determining the value of *Y*'s profit, that, since in leases for terms of years the raiyat's rent is usually a fixed sum, no question of enhancement will ordinarily arise, and *Y* will be entitled to have his profit reckoned as if the utmost produce went to him alone for the term.

Thus, suppose *Y* holds land under *Z* at a rental of Rs. 30 for a term which has still seven years to run, and that the value of the land is Rs. 1,000, equivalent (say) to the capitalized value of a yearly profit of Rs. 50. The dispute will arise as to the apportionment of the compensation for the Rs. (50—30) rent, that is Rs. 400, and the apportionment will be thus:—*Y* will get the present purchase price of an annuity of Rs. 20 for seven years, and *Z* will get the rest of the Rs. 400.

It may be noted that this method also applies to temporary holders of all kinds, such as persons who take an *ijara* (or farm) of lands immediately under the zamindar or patnidar.

Such, it seems to me, are the principles according to which compensation must be awarded to occupancy raiyats and the tenants immediately above them. The High Court held in a case\* in 1881, that these two classes were the greatest

\* *Godadhar Dass v. Dhunput Sing* (1 L. R., 7 Cal., 585).

sufferers by the enforced acquisition of land, and that they were, generally speaking, entitled to the larger portion of the compensation. But the considerations that led to that conclusion were based on sentiment, which, though just, affords no standard by which the conclusion might be applied. From the foregoing discussion, however, it will be seen that it is just these two classes who will obtain the "estimated excess value," and thus enjoy a very substantial solatium, which will be exactly proportioned to their previous profit, being the larger as their rents were the lighter.

In the case just cited the High Court considered that a landlord was entitled to some further share in the apportionment on the chance of the tenure falling in to him for want of heirs. Such a claim, where the circumstances made the falling in of the tenure probable, would deserve attention; but it may be doubted whether remote contingencies should be admitted at all. Where the number of possible heirs is large, and adoption is always available, the falling in of a *valuable* tenure is scarcely a probable contingency. Two other contingencies, sale and forfeiture, are referred to in the same case; but these are very different. If the zamindar bought in the tenure, he has of course acquired it at some expense: it may be at a substantial price, or it may be only in the shape of arrears of rent lost, and he is just a purchaser with a purchaser's rights; but this surely is scarcely a *contingent interest*. Forfeiture is no doubt such an interest; but no tenant would be likely to sit down tamely under such a deprivation, and the landlord would hesitate before exercising such an irritating right. The earlier ruling,\* therefore, disallowing these as inappreciable contingencies, appears to be the sounder view.

The custom of paying *salámi* is supposed to complicate the rights to compensation but enquiry shows, I think, that that view is erroneous. *Salámi*, or *nuzzerána*, is a bonus that a tenant pays his landlord when he receives a lease from the landlord, or when his landlord grants him some fresh right. The relevancy of this custom to the question of apportionment is insisted on in the latest case† in 1887. The Judges remark—"It may occasionally happen that the zamindar receives an extremely high bonus, and is content with charging the property with the receipt (payment?) of a very low rate of rent, or it may be that the bonus is almost nominal and the rent is excessively high, and the zamindar depends not on the bonus and the interest of the amount so paid and invested in some other way, but on the amount paid periodically

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\* *Raye Kissory Dassee v Nilcant Day* (20 W. R., 370).

† *Banwari Lall Chowdhry v. Burnomoyi Dassee* (I. L. R., 14 Cal., 749).

as rent ; and consequently as between parties standing in these relations, it is necessary to consider all these matters before any conclusion can be arrived at as to their rights to any particular compensation." Let us test this conclusion by considering what the results of the custom are.

When a tenant takes a lease of land, the rent he has to pay depends on the capabilities of the land, and it may be fixed at a rack-rental or at anything below that. If the tenant is assessed at a rack-rental and his tenure is a temporary one, it is clear that he can pay no *salámi* or bonus, for the land will yield but a barely remunerative return, and any bonus he may pay the landlord would be simply money thrown away ; he would give away so much capital, without getting in return for it anything from the land or any assured position on the land. It follows, therefore, that a tenant can pay *salámi* only when he receives some equivalent concession from his landlord ; that is, the landlord, if he takes *salámi*, must assess the rent at somewhat favourable terms or must grant the tenant some valuable right or status. And it is obvious that the *salámi* must be commensurate with the benefit the tenant obtains, for each party's self-interest will guard against his being overreached. The giving and taking of *salámi* therefore indicate that the landlord has, in return for the *salámi*, foregone part of his rights in favour of the tenant, and that the tenant has become possessed of that much of his landlord's rights.

The matter may be looked at in another way. The characteristics of a lease are, that the tenant obtains the use of the land and pays a certain rent for its use. The characteristics of a sale of land are, that the purchaser pays a sum of money and obtains the land with all its rights. When a person takes a lease and at the same time pays down a sum of money, it is clear that the transaction is neither a lease pure and simple, nor a sale pure and simple, but something intermediate, which partakes of the nature of both ; he is a lessee *quoad* the rent he pays, and he is a purchaser *quoad* the *salámi*.

It thus appears that *salámi* is nothing else but the price that the tenant pays to get a portion of his landlord's rights. It is strictly this, if the tenant acquires thereby fixed and permanent rights in the land ; and, if the concession he gains is a reduction in the rent, the *salámi* is much the same, or (better perhaps) it is the capitalized value of the rent that the landlord foregoes. In the former case, the landlord has sold part of his rights to the tenant, and he can no longer claim compensation therefor. In the latter case he has already received the capitalized value of the portion of rent that he relinquishes to the tenant, and he is equally precluded from demanding compensation on that account. The payment of *salámi* therefore does not affect the apportionment of compensation, but each



claimant is still entitled to get the capitalized value of his actual or potential profit.

The gift of nuzzers and other presents and the payment of non-legal cesses do not, of course, affect the apportionment of compensation, for these are, theoretically at least, optional with the tenant, and as they are opposed to the law, the landlord who exacts them can base no claim on them.

There are some peculiar cases, however, in which the principle proposed for the apportionment would seem at first sight to fail, and these cases might be used to test the soundness of any principle. For instance, lands are sometimes leased out upon uncommutative terms, as where a person who himself pays rent sub-lets a piece of his land free of rent to some one who has a claim on him, or devotes a piece of it free of rent to some religious or educational institution. In such cases the rent-free grantee enjoys all the profits, while the grantor has still to pay his superior landlord's rent. Still the proposed principle indicates the method according to which the apportionment must be made in these cases.

Let us take a case: Suppose *B* holds some land at a rental of Rs. 20 under *A*, and sub-lets it free of rent to a temple *C*; whereas if let out in the ordinary way, it could fetch a rack-rental of Rs. 50, so that its value would be (say) Rs. 1,000. *A* gets as profit Rs. 20, and *C* Rs. 50, whereas *B* not only gets nothing, but has to pay the rent to *A* out of his own pocket, so that he loses Rs. 20. How then is the apportionment to be made? *B* obviously is entitled to get nothing. *C* cannot claim the whole sum, because *B* and he have derived their rights from *A*, and their rights are subordinate to *A*'s. No private arrangement between them can infringe *A*'s rights. *A* therefore must get the capitalized value of his profit Rs. 20, and *C* can only get the remainder. The apportionment therefore must be—

<i>A</i> profit Rs. 20	...	compensation, Rs.	400
<i>B</i> " <i>nil</i>	...	"	<i>nil</i>
<i>C</i> " (part) Rs. 30	...	"	600
			<hr/>
Total Rs.			<u>1,000</u>

*C*, however, loses the capitalized value of the Rs. 20 extra profit that he had enjoyed, and as to this, his claim for indemnification must lie against *B*, for the arrangement is tantamount to this—*B* takes Rs. 20 rent from *C* in order to pay the rent to *A*, and at the same time makes a donation of Rs. 20 out of his own pocket to *C*. *B* cannot complain against this liability to *C*, for it leaves him exactly in the same position; before the land was taken he paid *A* Rs. 20 yearly

and after it is taken he must continue to pay Rs. 20 to *C* yearly, or pay off *C*'s claim once for all with the capitalized sum Rs. 400, which would thus give *C* his total Rs. 1,000. It cannot be maintained that in awarding compensation *A* is entitled to get the capitalized value of his profit, Rs. 20, and *C* that of his profit Rs. 50, so as to raise the total compensation to Rs. 1,400; for to maintain this is to assert that by crafty manipulation of mere rentals, the value of land can be raised to any sum; if *B*'s rent was Rs. 30, *A*'s and *C*'s profits together would be Rs. 80, and the compensation Rs. 1,600; or if *B*'s rent was Rs. 40, the combined profit would be Rs. 90, and the compensation Rs. 1,800; while all the time the utmost that can be got out of the land is Rs. 50 profit!

Similar to this is the following illustration: *Y* owns extensive premises and buildings, and leases out part of them rent-free to a company *Z* (in which *Y* is interested) to carry on its business. *Y* may claim the full value of all his property, and *Z* may claim separate compensation on the ground that when it is removed elsewhere, it will have to pay rent for the new premises. It is clear that the whole value of the premises must be divided between *Y* and *Z*, and that *Y* cannot, by leasing out part of his property free of rent, enhance the value of the whole; otherwise the more companies he entertains free of rent, the greater the value of his property! And the companies themselves might in their turn also adopt so lucrative an arrangement!

It thus appears that the principle proposed does not fail even in these peculiar cases, but each claimant will get the capitalized value of his profit. For, in the first case, *B* by indemnifying *C* yearly in the sum of Rs. 20, or once for all by the capitalized donation of Rs. 400, gives *C* his full compensation, while he himself gets the strict value of his own profit, which is algebraically a *minus* quantity. In the second case, *Y* by making a present of the part-rent to *Z* divests himself of it and cannot claim compensation for it; *Z* instead must get that much.

It may be finally remarked that the question of abatement of rent is solved in this process, for each claimant in getting the capitalized value of his profit, *i. e.*, of his portion of the rent received, has his claim for that much rent satisfied; and as the rent paid by each tenant provides the combined profit enjoyed by all his superiors, the satisfaction of all the claims means the wiping out of all the rents due from the land-acquired.

One question, however, has been raised in connexion with abatement of rent in two of the cases above-mentioned, *viz.*, if any claimant grants no abatement of rent to his sub-tenant is he entitled to any share in the compensation? It has been decided in those cases in contradictory ways. In the earlier

case in 1873 it was remarked—"If there is no abatement of the rent, and the patnidar continues liable to pay to the zamindar the same rent as he had to pay before, there would be nothing for which the zamindar ought to receive compensation." But in the later case in 1881, the High Court held that, though no abatement was made in the patnidar's rent, yet the zamindar was entitled to receive some portion of the compensation. There surely can be no hesitation in pronouncing the earlier view the correct one. The zamindar is entitled to nothing from the land but his rent; and, if he continues to get his rent as before, how is his position affected, and what is there that he ought to be compensated for? This arrangement of no-abatement only obtains in practice, where a small portion of a tenure is acquired, and where the remainder is ample security for the whole rent; while the contingent interests (which were pronounced to be of importance in the second case and which I have already commented on) really cannot claim consideration, for the greater part of the tenure still exists with whatever contingent interests may appertain to it. It is surely for the superior holder to decide whether he will have a part of the compensation and grant abatement of rent, or whether he will keep to his rent and relinquish his claim to compensation. He cannot refuse abatement, and in the same breath claim compensation. He must be left to decide which alternative he prefers. If he chooses to keep to the old rent, his share of compensation obviously must go to the inferior tenant who still pays him the unabated rent.

I submit these views for public consideration as the law enunciates no principles of apportionment and the case-law is uncertain; while the necessity for some correct and authoritative principles is not open to dispute. The general principle now proposed is simple; it is also, I think, of general application, for I have tested it in every way that has suggested itself from experience both in Calcutta and in the Mufassil. I have also stated the minor principles that qualify it in special circumstances. It remains for others, and especially for those well acquainted with the land system of the country, to decide whether these principles are correct, and whether they will rightly govern all cases. It is hoped that this discussion may clear the subject of some difficulties, and lead to the accomplishment of the object in view.\*

F. E. PARGITER.

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\* The Reviewer seems to have succeeded in showing that, in the apportionment of compensation in land acquisition proceedings, there is considerable uncertainty, and room for varying decisions. Case law can only step in when invoked *pro re nata*, and therefore it might be well for the Legislature to amplify the law, and lay down some broad principles for the guidance of Revenue Officers and the Civil Courts.—ED.]

## ART. VI.—TAXATION IN INDIA.\*

### *Part III.—The Stamp Revenue.*

CERTAIN duties levied in stamps under Act VII of 1870 and Act I of 1879 constitute what is called the Stamp Revenue. The stamps under Act VII of 1870 are called Court-fee stamps, and those under Act I of 1879 Deed stamps or General stamps. Prior to the Court-fees Act, 1870, there was no distinction between Court-fee stamps and Deed stamps. The same stamps were used for both purposes, and formed the subject of several General Stamp Acts from 1829 to 1869. The Court-fees Act, 1870, and the Indian Stamp Act, 1879, which are now in force, replaced Act XVII of 1879, which again had replaced the Stamp Fees Act, 1867. In the Objects and Reasons of the Act of 1867, it occurred to the Legislature to offer an explanation of the grounds for taxing civil suitors and other litigants. A heavy tax upon civil suitors had been in existence from 1829. The minds of the people had become familiar with it. The explanation offered in 1867 seems to have been somewhat tardy and unnecessary. It has furnished Sir Richard Garth with the theme of one of his "Few Plain Truths About India," and is given below *in extenso* :—

"It is not contended that the expenditure on the Courts of Justice should be met in full by a tax on such individuals of the community as alone resort to the Courts, because it is manifest that all classes have more or less a direct interest in the administration of justice, especially of justice in the Criminal Courts.

But it is only reasonable that those who resort to the Courts should contribute in a larger portion than the general public to the support of them as institutions by which they, more than others, are immediately benefited.

It has been found, too, that some tax upon litigants is absolutely necessary to restrain the special tendency of the public in India to resort either to the Civil or Criminal Courts on the occasion of every petty claim or dispute."

Referring to this explanation, Sir Richard Garth says :—

"It is clear, therefore, that the object of the Government in imposing this tax was not to make suitors pay the whole cost of

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\* Continued from No. CLXXV for January 1889, p. 77.

the Civil Courts, and certainly not to burden them with a large surplus in addition ; whereas the amount of the tax now raised in Bengal exceeds by at least one half the entire expense of the Civil Courts.

From the High Court Report, which was forwarded to the Government for the year 1882, it appears that the total estimated cost of the Civil Courts in Bengal was Rs. 3,396,066, whilst the total income to the Government from the stamp fees was Rs. 6,612,722.

This surplus had at the time been increasing for several years past, and I learn that it is now even larger than it was in the year 1882.

The result is that civil suitors in Bengal are not only made to pay the entire cost of the Civil Courts but of the Criminal Courts also, besides contributing a very large surplus for the benefit of the general public. All this I stated very plainly in a Minute which I addressed to the Government in 1883, and, as far as I am aware, my facts have never been questioned.

Now this is a manifest injustice, which falls with peculiar severity on the poorer class of litigants. To the rich the payment of so large a fee is often a serious matter ; but in the case of the poor, it absolutely bars the door of Justice. It often happens that suitors cannot possibly raise the necessary sum to enable them to enforce their rights ; and consequently suits in India, both by rich and poor, are frequently carried on, not by the claimants in whose names they are brought, but by suit-brokers and money-lenders, who undertake the case and pay the necessary expenses upon the terms of getting a share of the property if the suit should prove successful.

This mischievous system which is known in England by the name of Champerty and Maintenance, is here considered illegal, as being contrary to public policy and tending to encourage strife and litigation ; but it has been tolerated in India for no better reason, than because without it many unfortunate claimants would be without any means of redress. There is no doubt that both among Europeans and Natives, but especially the latter, a very strong feeling exists against the undue severity of this imposition.

There is not the same reason now as there was in former times for preventing unnecessary litigation by means of a tax. The Subordinate Courts are far stronger than they used to be, and fully able to deal summarily with unfounded claims ; and I should hope that the very questionable policy of denying justice to the poor, for the purpose of restraining generally a spirit of litigation, would not find much favor at the present day."

I am surprised no one has yet questioned Sir Richard Garth's facts and figures which seem to be incorrect and, in some respects, misleading, as may be easily shown by a reference to the Government accounts. The following tables, compiled from the Finance and Revenue Accounts of the years 1881-82 and 1886-87, show the principal items of the stamp revenue and of the expenditure under the head of Law and Justice in each Province for the years 1881-82 and 1886-87 :

*Account of Stamp Revenue in 1881-82.*

Name of Province.	Sale of Court-fee stamps.	Sale of General stamps.	Fines, penalties, and miscellaneous.	Total proceeds	Deduct collection charges and refunds.	Net Stamp Revenue.
	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.
India, General ..	16,025	1,568	518	32,228	27,708	59,935
Central Provinces ..	82,745	37,150	1,363	121,258	3,912	117,346
Burma ..	55,090	26,536	527	81,153	2,509	79,644
Assam ..	45,342	19,011	328	64,681	2,645	62,036
Bengal ..	87,317	325,874	6,357	1,202,392	46,912	1,155,480
North-Western Provinces and Oudh	425,348	154,182	2,229	581,759	18,814	562,945
Punjab ..	235,465	99,716	2,145	337,326	15,818	321,508
Madras ..	339,576	195,176	8,982	544,024	20,957	523,067
Bombay ..	231,749	146,271	36,531	415,551	24,155	390,996
Total ..	2,501,511	1,019,831	59,970	3,581,372	115,468	3,465,904

*Account of Expenditure under Law and Justice in 1881-82.*

Name of Province	The High Courts, and Chief Courts, including Law Officers	Subordinate Courts and Courts of Small Causes.	Criminal Courts, including Presidency Magistrates.	Jails	Miscellaneous.	Total Expenditure.
	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.
India, General ..	107	4,128	4,578	145,079	418	159,350
				(inclusive of convict charges at Port Blair.)		
Central Provinces ..	6,513	6,601	54,831	55,043	2,021	125,029
Burma ..	79.8	10,852	65,600	62,973	6,782	154,135
Assam ..	...	12,388	35,435	9,590	1,959	59,372
Bengal ..	135,953	371,703 (note)	206,124	159,812	28,412	911,184
North-Western Provinces and Oudh	41,467	201,726	147,038	123,110	4,909	520,550
Punjab ..	25,887	72,636	117,238	101,995	3,327	322,315
Madras ..	61,154	218,416	88,493	97,548	11,055	476,666
Bombay ..	92,507	213,012	122,985	81,161	7,245	517,110
Total ..	371,616	1,111,662	817,372	835,697	65,168	3,232,515

*Note.*—Salaries of District Judges, Additional Judges, Judicial Commissioners, Subordinate Judges and Magistrates and Establishment, service of process and sundries .. .. Rx. 344,335  
 Courts of Small Causes .. .. Rx. 27,368

Total Rx 371,703

*Account of Stamp Revenue in 1886-87.*

Name of Province.	Sale of Court-fee stamps.	Sale of General stamps.	Fines, penalties, and miscellaneous	Total proceeds.	Deduct collection charges and refunds.	Net Stamp Revenue.
	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.
India, General	22,362	19,373	319	42,054	42,246	84,300
Central Provinces	103,852	42,624	451	146,907	4,995	141,912
Burma ..	58,679	29,307	4,130	92,116	3,638	88,478
Assam ..	53,988	19,819	409	74,216	3,222	70,994
Bengal ..	999,217	331,279	12,822	1,346,318	61,127	1,285,191
North-Western Provinces and Oudh }	483,627	150,647	2,572	636,846	25,813	611,033
Punjab ..	235,462	113,167	2,811	351,440	19,028	332,412
Madras ..	362,986	212,171	6,911	582,068	23,742	558,326
Bombay ..	271,068	168,971	39,276	479,315	31,795	447,520
Total ..	2,594,241	1,090,338	69,701	3,751,282	131,114	3,620,166

*Account of Expenditure under Law and Justice in 1886-87.*

Name of Province.	The High Courts and Chief Courts including Law Officers.	Subordinate Civil Courts and Courts of Small Causes.	Criminal Courts including Presidency Magistrates.	Jails.	Miscellaneous.	Total Expenditure.
	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.
India, General ..	588	9,034	13,318	132,011	675	155,626
Central Provinces	5,718	5,693	58,368	58,702	1,512	129,993
Burmah ..	19,836	8,232	85,435	73,190	45,633	232,326
Assam ...	333	13,316	37,117	100,008	853	61,637
Bengal ...	135,005	420,847 (note)	212,878	166,572	26,573	961,875
North-Western Provinces and Oudh }	47,828	213,432	152,435	96,792	6,884	517,421
Punjab ..	29,630	122,907	118,966	78,494	3,814	353,811
Madras ..	56,315	233,410	97,131	83,305	5,950	481,111
Bombay ..	83,529	216,765	138,427	59,318	3,076	501,185
Total ..	378,852	1,243,686	914,075	763,392	94,980	3,394,985

*Note.*—Salaries of District Judges, Additional Judges, Judicial Commissioners, Subordinate Judges and Munsiffs and Establishments, service of processes and sundries .. Rx. 401,815  
 Court of Small Causes .. .. .. .. Rx. 19,032

Total Rx 410,847

The above tables contain much more than is necessary to show the incorrectness of Sir Richard Garth's facts. They contain much correct information regarding the Stamp Revenue and Expenditure on the Courts of each Province, which seems to be both interesting and useful, and to which reference will be made more than once later on. Sir Richard Garth's facts and figures are easily disproved. They seem to be based upon an estimate made in 1882. Referring to the account of Stamp Revenue in 1881-82, it is apparent that the total proceeds of the sale of court-fee stamps in Bengal was Rx. 870,171, including the court-fees paid in Criminal and Revenue Courts. In these Courts the stamp duty is light, but a large amount of court-fee stamps is used for granting copies of proceedings, accounts, statements, and the like; see article 9, Schedule I of the Court-fees Act, 1870. Assuming the court-fees in the Criminal and Revenue Courts to be about 25 per cent. of the whole, we may estimate the court-fees paid in the Civil Courts in Bengal at what Sir Richard Garth has estimated it, *viz.*, Rs. 6,612,933 or Rx. 661,293. A deduction should, however, be made from this estimate on account of the succession duty paid in court-fee stamps on the grant of probate, letters of administration, and certificates under Act XL of 1858 or Act XXVII of 1860. The nature of this tax has been fully explained in Part II. It is a new tax introduced in 1870, and cannot be said to be covered by the Objects and Reasons of the Stamp Fees Act, 1867. It is not properly a tax upon suitors, but simply a Succession tax upon which the Civil Courts could have no special claims, unless it be upon the ground that everything was grist that came to the mill. The amount of this tax was estimated in Part II at Rx. 500,000 or 20 per cent. of the total court-fees revenue. According to this estimate the Succession tax in Bengal would be for the year 1881-82, 20 per cent of Rx. 870,171 = Rx. 174,034. Deducting this sum from Sir Richard Garth's estimate, the net court-fees paid in the Civil Courts in 1881-82 (exclusive of the Succession duty) would be Rx. 487,259. He says: "From the High Court Report for the year 1882, it appears the total estimated cost of the Civil Courts in Bengal was Rs. 3,396,066" = Rx. 339,606. Referring to the account of expenditure in courts in 1881-82, it is clear that this estimate did not include the cost of the High Court or Courts of Small Causes, but only the cost of the Subordinate Civil Courts. The total cost of the Civil Courts in Bengal in 1881-82 was Rx. 506,756 as follows:—

Cost of the High Court	...	Rx. 135,953
Do. of Subordinate Civil Courts	..	Rx. 334,335
Courts of Small Causes	..	Rx. 27,368
		<hr/> Rx. 506,756



Sir Richard Garth has evidently been misled into thinking that Rx. 339, 606, which was the estimated cost of the Subordinate Civil Courts, was the total estimated cost of all the Civil Courts in Bengal. Being misled himself, he has been unintentionally misleading the public. As a matter of fact, the total court-fees paid in the Civil Courts of Bengal, exclusive of the Succession duty, do not yet cover the total cost of the Civil Courts in that Province. In 1886-87,

the total court fees paid in the Civil Courts of  
Bengal exclusive of the Succession duty (worked  
out as for the preceding period) was ... Rx. 549,570  
and

the total cost of the Civil Courts of Bengal, including  
the High Court and the Courts of Small Causes was Rx. 555,852.

Sir Richard Garth appears to have been quite wrong in stating that "civil suitors in Bengal are not only made to pay the entire cost of the Civil Courts, but of the Criminal Courts also, besides contributing a very large surplus for the benefit of the general public." This has not yet occurred, nor is likely to occur within the near future. What is likely to occur is, that in the prosperous province of Bengal, the total court-fees paid in all the Courts and offices Civil, Criminal and Revenue, exclusive of the Succession duty, may in a few years reach the total expenditure of the Civil and Criminal Courts, including Jails. But it will be a long time before this result is attained for the whole of India.

In 1886-87 the total Court fees sold in Bengal  
(exclusive of the Succession duty) was ... Rx 799 344  
the total expenditure of all the Courts, Civil  
and Criminal, in Bengal including Jails, .. Rx. 961,875  
the total court-fees sold in India, exclusive of  
the Succession duty ... .. Rx. 2,072,993  
and the total expenditure of all the Courts, Civil  
and Criminal in India including Jails .. Rx. 3,394,985

Being obliged in the interests of truth to demolish Sir Richard Garth's so-called facts,\* I wish I could support his impeachment of the court-fee stamp duty upon other grounds. The

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\* [Yes, Sir Richard Garth's "Plain Truths" are indeed stranger than fiction, and the title of his booklet is an unfortunate misnomer, unless, indeed, it was selected on the *lucus a non lucrando* principle. The scale of fees fixed by Act XXVI of 1887 was high : but Act VII of 1870 was a "relieving" measure, and reduced taxation on litigation by  $2\frac{1}{2}$  per cent. Mr. Cockerell remarked in debate : "They had also to consider the fact that a tax not substantially different in amount from that prescribed by this Bill, had been in operation for upwards of half a century." As to the alleged profit from the administration of Civil Justice, there is no reason why the cost of all Courts, including criminal and revenue, should not be taken into consideration together. Then, there is the expenditure on buildings for Courts of Justice, and the pensions of Judicial Officers. If these be taken into consideration, the so-called surplus is more than swallowed up. As to taxation of litigation, Sir Charles Hobhouse remarked, when moving for leave to

initial stamp duty in Civil suits is, no doubt, somewhat heavy. But it exercises a wholesome deterrent influence upon litigation, and prevents people from too readily rushing into Court. Without it, what a fine time it would be for litigious men and mofussil practioners ! These practioners would have the suitors' available means all to themselves without having the Government to go shares with them. It would be like the system of open stills for distilling and vending liquor. People fond of litigation would wallow in it in the Mofussil Courts, as people fond of drink may wallow in liquor at the outstills. This may be a highly coloured picture. But the stamp duty has existed from a long time. It is easily collected. There is no reason now why it should be repealed or even reduced. It is much better that it should remain as it is than that either the income-tax or the salt-tax should be raised to recoup the revenue.

Sir Richard Garth says : "To the rich the payment of so large a fee is a serious matter ; but in the case of the poor, it absolutely bars the door of justice." He seems to forget that the Code of Civil Procedure has made ample provision for poor men's suits. A poor man can, on establishing his poverty, sue *in formâ pauperis* without any stamp duty.\* But there is a Court well known to Sir Richard Garth, in which little or no stamp duty is paid, but of which the door is absolutely barred against poor men. I mean the Original Side of the High Court. Herein practise skilful attornies and learned barristers. They conduct their clients' cases with scientific skill and charge heavy fees accordingly. It has practically become the rich man's court in which poor men, unable to meet its heavy charges, have no *locus standi*. To men of moderate means or property it is a veritable snare, and has brought many of them to grief and absolute

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introduce the Bill, which afterwards became Act XXVI of 1867 : "He was aware that there was an opinion among certain writers in England that justice should not be taxed, but, as far as he knew, that theory did not meet with entire approbation in England ; for he found that, according to the returns of the year 1862-63, in the County Courts, the amount of fees averaged something like 15 or 16 per cent. of the value of the property litigated. He feared, therefore, that the theory could hardly answer even at home. But he was sure that it could not be applied to this country. *The community of this country was so particularly litigious that litigation was, with the great majority of the people, something like what an engrossing pastime, such as the ring was to some persons at home, and they would pay whatever amount was demanded rather than not litigate.* On looking into the history of the levy of duties on the institution of suits, he found that they had always been levied with the object of repiecing the amount of petty and vexatious litigation with which the Courts would otherwise have been flooded. We would not say that these remarks are not slightly exaggerated ; but we have the stubborn fact that the *ad-valorem* fee in Mofussil Courts in India is 7½ per cent., while it is 15 or 16 per cent. in County Courts in England. Even if process and other fees were added in Bengal, the percentage would not exceed 12 or 1 per cent.—Ed.

\* Chap. XXVI of Act XIV of 1882.

ruin. There is no initial stamp duty of any amount to make them pause. There is no means of making any estimate of the total cost as in the Mofussil Courts, where the suitor pays a lump sum for the case to his vakils, and is not charged daily fees by two distinct classes of lawyers, as in the Original High Court. The door of the court and the arms of the attorney stand invitingly open. A small initial outlay enables a man of moderate means to get in. Once in, he is a secure fish in the net. It frequently happens that he soon repents and wishes to get out. But he is encouraged to fight on to the end and employ eminent counsel at ruinous fees to fight for him. If successful in the end, he is half ruined. If unsuccessful, he is totally ruined. But then he has this satisfaction, which few mofussil suitors have, that his attorney has conducted his case with scientific skill, and eminent counsel have done their best to ruin him. I think, after all, poor men have no real grievance in being excluded from this Court. They are much better out of it.

Sir Richard Garth is amazed that the stamp duty should be so high as 5 per cent. of the value of the suit. But if a statement be prepared of the taxed costs on both sides in contested cases in the Original High Court, it will be found that the aggregate cost in a contested suit of average value, is about two hundred per cent. of the value of the property in dispute! It is high time that this huge costly humbug were knocked on the head. It was formerly the Court of the Anglo-Indians, who had little faith in the law or justice of the Mofussil Courts. But the Anglo-Indians have now spread over the country, have properties in every district in Bengal, and have become accustomed to the Mofussil Courts. To the natives of the country, the Calcutta Courts have always been a source of terror and oppression from the time of Sir Elijah Impey down to the present times. If the Court were to fall now, it would fall unregretted and unlamented by any section of the lay-public, Native or European,

“Unwept, unhonoured, and unsung.”

The only persons who would mourn its loss are the attorneys and junior barristers, whose occupations would be gone or greatly reduced. There are not a few natives in Calcutta who can testify to their families and fortunes having been well nigh ruined by some costly and protracted suit about house property, lingering on for years, and swallowing up far more than the value of the property in dispute.

It is clear that the justice administered by the Original High Court is not justice, considering the high price which suitors have to pay for it. It is unnecessary to consider whether that justice is intrinsically any better than the cheaper justice of the Mofussil Courts. It is the latter which ninety-nine per cent. of the

people of Bengal have and are content to have.' Is it necessary, then, or expedient to have a different kind of justice for a hundredth part of the population? It seems to me there is not a single reason, political, economical or financial, for maintaining this costly institution. It should be replaced at once by a District Court. The financial advantage to the Government would be two-fold. There would be a large increase of the court-fees revenue by making the suitors in the Calcutta Court pay an *ad valorem* stamp duty as prescribed by the Act. There would be a large deduction in the expenditure of the High Court. This would go a long way to realise Sir Richard Garth's estimates of the court-fees revenue and expenditure on the Civil Courts in Bengal, though the occurrence of such a contingency (catastrophe he would call it) was never within his contemplation.

In connection with the court-fees, suitors in the Civil and Criminal Courts have a real grievance in the heavy stamp duty they are made to pay in those Courts for obtaining copies from the records of pending cases. Before 1870, plain or uncertified copies were made by the Amla (ministerial officers) in charge of the record or his friends, and given to suitors at a rupee for 1,600 English or 3,200 Bengali words. Out of this, the Mukhtear received from 10 to 20 per cent. as his commission. So that the net remuneration for copying was about a rupee for 2,000 English or 4,000 Bengali words. This seems to have been the rate of remuneration for copying on account of Government, but higher rates were charged to private individuals for furnishing them with certified copies.\* In 1870, the High Court directed by its Circular Order of the 23rd June, that the Judges of the Subordinate Courts should license copyists for the preparation of copies, and that copies should be paid at the rate of one anna for every hundred words in the vernacular and two annas for every hundred words in English. These rates were fixed at a time when copyists were few and costly. Now they can be had in any number and at small salaries. Any person who wishes to have copying work done in any large quantity, can get first-class copyists to do it carefully at the old Government rate of a rupee for 2,000 English or 4,000 vernacular words. So that if it were necessary to make any change in the rate of copying fees, it should have been considerably reduced and not raised, as it has been by a Circular Order of the High Court now in force, dated the 1st October 1880. This order contains the following rules in respect of copying fees:—

(a.) In all Civil Courts, a uniform charge shall be made for

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\* Circular order of the Sudder Dewany Adalat, dated 13th May 1861.

the preparation of copies, whether authenticated or unauthenticated, at the rate of four annas per folio. This term, it is to be carefully explained to all subordinate officers, merely denominates a certain quantity of manuscript ; the folio to consist of 150 words English, or 300 words vernacular, four figures counting as one word.

(c.) All copies, whether authenticated or unauthenticated, must in future, before issue, be examined by a salaried officer. The copies themselves will in all cases be made by section-writers, who will be remunerated at the rate of two annas per folio.

(d.) Half the charge of four annas per folio levied by means of the impressed stamp represents the payment to Government on account of the salary of examiners, cost of papers, &c. ; the other half will represent the earnings of the section-writers, whose accounts will be made up monthly, and the amount due to each paid out of contingencies. These payments must be checked at the time with the upper part of each stamp, which, when the copy is ready, must be torn off each sheet, along the perforated line, and then endorsed with the copyist's name, and kept till the end of the month. Care must be taken to see that nothing in excess of half the amount realized in stamps is paid away."

By introducing the system of stamp paper in lieu of copying fees, the High Court has raised the charges for plain copies 33 per cent. Suitors cannot do without copies. They, unfortunate people, must have copies of all the important papers, *e. g.*, pleadings, documentary evidence, depositions, proceedings, and orders for making briefs for their lawyers. The cost to them under this head amounts to considerable sums, often exceeding the initial stamp duty in Civil suits. Four annas for every 150 English words is a monstrously high price for copies. In Calcutta you can print 50 copies for that price. It is unfortunate that Sir Richard Garth, the friend of suitors, should have been the Chief Justice of the High Court when the Circular Order which has imposed such a heavy additional burden upon them was issued. The High Court was probably not aware of the large quantity of copies which parties in Civil and Criminal cases had to take, and did not think that the rates fixed by their Circular would press hard upon them. Rules are like shoes. Their makers make them in the complaisant belief that they will fit the public very well. The public feel the pinch. But there is this difference, they can cast off pinching shoes, but cannot so easily get rid of a pinching rule of the High Court. It is quite clear that the rules of the Circular Order of 1880 require very considerable relaxation. The charges in registration offices for certified copies of deeds are at the rate of a rupee for copying and examining 800 English or 1,600 Bengali words. But the work of copying deeds or other papers for certified copies requires exceptional carefulness. Very few erasures or interlineations are allowed in such copies. Having regard to the market rate for copying, and to the fact that plain copies do not need the same amount of care as

certified copies, I would humbly suggest that, for plain copies, the rates should be as follows :

Two annas for copying 250 English or 500 vernacular words, and  
One anna for cost of paper and examining 250 English or 500 vernacular words, or  
Total fees, three annas for 250 English or 500 vernacular words.

In order to introduce this alteration of rate, it would not be necessary to make any large changes. The stamp should be marked three annas instead of four annas, and the number of words per folio should be increased to 250 English or 500 vernacular. This would make the copies look like ordinary decent writing. They are written at present in a large school boy's hand like telegrams.\* For certified copies the present four annas stamps might be retained and the rate should be—

Two annas eight pies for copying 250 English or 500 vernacular words, and  
One anna four pies for cost of paper and examining 250 English or 500 vernacular words, or  
Total fees, four annas for 250 English or 500 vernacular words.

In regard to the revenue from general stamps, I must repeat what I have shown in Part II, that about one-half of it is the duty upon the transfer of land. It is levied at the rate of one per cent. upon the capital value, and charged upon all transfers, whether by sale, gift, mortgage or lease. It is a great pity that no separate account is kept of this tax. It should be clearly placed before the Indian Government that it is a good thing to have valuable landed properties in the possession of its subjects; for such properties contribute in various ways to the exchequer. Take the Province of Bengal. Besides the land revenue of Rx. 3,887,486, the landed property in that Province yielded directly to the exchequer Rx. 752,919 in 1886-87 as follows :—

The Public Works cess, which is an income-tax upon the rents and profits of landed property in Bengal ...	Rx. 385,937
Stamp duty upon the transfer of land, estimated at one-half of the total proceeds of the sale of general stamps in Bengal ... ..	Rx. 167,139
Succession tax upon land paid in Court fee stamps estimated at 20 per cent. of the total proceeds of the sale of Court-fee stamps in Bengal ... ..	Rx 199,853
	<u>Rx. 752 919</u>

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\* [English copies have only five words in a line, and the writing is spread and scrawled out to cover the paper. A copy of a very long judgment may be an inch or even two inches in thickness! We can corroborate the Reviewer in saying that the present rate for English copies is excessive, and is felt to be so. But the High Court is not to blame. If we are not mistaken, the High Court in 1884 recommended a reduction of the rate of copying fees. It is for Government to act in the matter.—ED.]

There is not much complaint regarding the rates of stamp duty payable under the Stamp Act. But the provisions for impounding and levying penalties are a fruitful source of oppression and a subject of universal complaint and execration. Those provisions have, no doubt, been enacted *bonâ fide* for the protection of the stamp revenue and not for the wanton oppression of the people. But it is scarcely creditable to the Legislature that they could enact no better or simpler means of protecting the revenue.

All instruments relating to immovable property, and many of the more important instruments of the other class, come before registry officers for registration under the Indian Registration Act, 1877. Without registration, instruments of the former class are absolutely void and inoperative. Persons who, under the compulsion of law or voluntarily, bring instruments for registration (this they must do within four months of execution) cannot be said to harbour any design to defraud the stamp revenue. They know very well that it is one of the duties of the Sub-registrar to examine the stamp on the instrument, and that he will not register it if the stamp be insufficient. It is easy to conceive that the owner of the instrument (I use the phrase in the sense of the person in whose favor it is executed) and the Sub-registrar may differ in their reading of the clauses denoting the rate and amount of stamp duty. This is what frequently happens. But then, is it just to punish a man by impounding his instrument for not understanding a law (not always clear in itself) in the same way as the registry officers? Impounding the instrument always operates as a heavy punishment, although the Collector may ultimately decide, as he often does, that the owner of the instrument was right and the Sub-registrar wrong. Under Section 35 of the Stamp Act, the Sub-registrar sends the impounded instrument in original to the Collector who, on receiving the instrument, adopts the following procedure:—

“Section 37 (a).—If he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped or that it is not so chargeable, as the case may be, and shall, upon application made to him in this behalf, deliver such instrument to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct.”

“Section 37 (b).—If the Collector is of opinion that such instrument is chargeable with duty and is not stamped he shall require the payment of the proper duty or the amount required to make up the same, together,

with a penalty of five rupees ; or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less than five rupees and not more than ten times the amount of such duty or portion, as he thinks fit."

Let us take a case under Section 37, clause (a), where the owner is a man of average means, and is not at all in fault. What are the consequences to him of the impounding of his instrument ?

- I.—He has to come up to the Collector's Cutchery, generally at some distance from his home, and remain at the Sudder Station for several days. This costs him money, say five rupees, besides loss of time.
- II.—He has to engage a revenue agent or vakil to place his case before the Collector. This again costs money, say five rupees for fees, and eight annas court-fee for Mukhtarnamah.
- III.—It frequently happens that the Collector, who has multifarious duties to attend to, cannot find time to consider and decide the question of stamp duty. He puts off the case from time to time, and suffers the four months allowed for registration to elapse. Then the instrument becomes waste paper, and its owner is placed in a very embarrassing position and at the mercy of the executant.
- IV.—If the Collector decide in time that the instrument had been correctly stamped, the owner must again make application to him for the delivery of the instrument to the person who had presented it for registration, and bring him to the Collector to receive back the instrument. This again costs money, (say five rupees), for court-fee upon the petition, fees of the revenue agent, and expenses of himself and executant. If the executant had presented the instrument for registration and is not an honest man, he may purposely delay to receive it back from the Collector, and let the period allowed for registration expire.
- V.—If there is yet time for registration, the owner must again go to the office of the Sub-registrar to present the instrument for registration or cause the executant to do it. Sometimes the Registrar may extend the time for registration to eight months, under Section 24 of the Indian Registration Act, 1877, on payment of a fine equal to ten times the registration fee.



The consequences of the impounding of an instrument are, therefore, very serious, though the owner be not at all in fault. There is considerable expense, trouble, loss of time and, above all, risk of losing the instrument altogether; but the law is singularly one-sided and contains no provision for making any compensation.

If the Collector finds that the owner is in fault or that the instrument has not been correctly stamped, he has to undergo all the loss and tribulation mentioned above and to pay, besides, the deficient stamp and a penalty equal to ten times the amount of the deficiency. The fact of bringing an instrument (before it can be put to any use) to the registering officer, whose duty it is to examine and certify whether it has been correctly stamped, completely rebuts all suspicion of *mala fides*. Then why should a man in these circumstances be punished or put to any trouble? Why should not the Sub-registrar, whenever he thinks the stamp is insufficient, demand and receive at once the deficient stamp and register the instrument? Is not this a much simpler plan, and equally efficacious for the protection of the revenue?

There is, no doubt, a provision in Chapter III of the Act, that the Collector, on receiving a fee "not exceeding five rupees and not less than eight annas," may certify on an instrument brought to him for that purpose the proper stamp duty with which it is chargeable. Now, it is well known that the Collector is a hard-worked officer and burdened with numerous duties which leave him little spare time. But the Legislature will not understand this, and seems to think he has unlimited time on his hands. The fee is moderate enough. It is not the fee, but the trouble and expense of coming to the Collector and of dancing attendance upon him, and the long time he frequently takes to form his opinion and grant a certificate, which deter the public from resorting to him largely for certificates under this chapter. It is, probably, good for the administration of the country that so few instruments are brought to the Collector for certificate. If a large number were brought to him, he could not go through each instrument and determine the duty with which it is chargeable, without sacrificing or neglecting more important work.

Having explained my reasons at some length, I think I may now offer the following suggestions for the consideration of the Indian Government and the Indian public :—

I.—Chapter IV of the Indian Stamp Act, 1879, should be extensively modified and recast. The power of impounding an insufficiently stamped instrument and admitting it in evidence on payment of a

penalty, should remain in the Civil Courts alone. Registering officers and all other public officers should be deprived of this large power for mischief. The case of presenting an instrument in the registry office for registration and that of using it as evidence in a Civil Court, are materially different. Besides, in the Civil Court there is little likelihood of an instrument being impounded except upon just and valid grounds.

- II.—There should be a provision that, on the presentation of an instrument for registration before a registry officer, he should examine and certify whether it was duly stamped. If he should find the stamp insufficient, he should endorse an order on the instrument to the following effect:—"The instrument not being duly stamped, I refuse to register it unless additional blank stamp of the value of—rupees is put in to make up the deficiency." On such additional blank stamp being put in, the registry officer should proceed to register the instrument as duly stamped and cause the blank stamp to be stitched or otherwise affixed to it.
- III.—There should be a further provision that it should be competent to the executant or owner of an instrument to apply to the Collector for the refund of the value of the additional stamp which he had put in under the order of the registry officer. If the Collector should find that the original stamp on the instrument was sufficient, he should make an order for the refund of the value of the additional stamp. Applications for refunds are not likely to be at all numerous. No one will consider it worth his while to incur trouble and expense for small refunds. The cases for large refunds will necessarily be few and these the Collector may decide at his leisure, without causing any serious injury to any body's rights.
- IV.—In Section 30 of Chapter III, the Collector's fee should be fixed at two rupees. A fixed fee is always preferable to a discretionary fee. It saves time and enables the public to estimate the total cost of an application for a certificate under this Chapter.
- V.—In Section 61 of Chapter VIII the second paragraph should be struck out. It is contrary to all principles of justice to make the mere execution of an instrument without the same being duly stamped a criminal offence. Can any body say that the

Stamp Act is a perfect law and that the clauses are so well expressed as to admit of no difference of opinion regarding their construction? The public consider the Stamp Act to be the very reverse of a perfect law, and certain provisions contained in Chapter V for reference and revision seem to indicate that the Legislature itself had a shrewd suspicion that its work was not quite perfect. Then why should a man be criminally punished for a difference of opinion or mistake regarding the construction of a clause of the Stamp Act? If a registry officer or revenue officer could be prosecuted in the Criminal Courts for improperly impounding an instrument or improperly levying penalty thereon, it would be even-handed justice. As this is out of the question, so the Legislature should repeal at once the converse provision contained in Section 61. I am bound to say in fairness, however, that there have been few prosecutions under this paragraph of Section 61 in the Province of Bengal. Section 69 contains a very wholesome provision in restraint of prosecutions under this Act. No prosecution can be instituted without the sanction of the Collector; and the Collector, as a rule, does not give his sanction except in cases which disclose an intention to evade or defraud the revenue.

If Chapters III, IV and VIII of the Indian Stamp Act, 1879, be modified and recast on the above lines, the result will be, without impairing in any degree the efficiency of the legitimate safe-guards of the Stamp revenue, to abrogate sundry unjust rules and flagrant abuses which seem to have clustered round it. Such amendment will confer a great boon upon the deed-executing and deed-receiving public. It will greatly simplify the work of the revenue officers; and it will further relieve the Collector of a great deal of high-pressure and unpleasant work, leaving him more time to devote to more important duties.

#### *Part IV.—Customs.*

THE years 1859, 1860 and 1861 were prolific in Legislative Acts of a very high order of excellence. Some of the Codes had been long in preparation. But the Legislature itself consisted of statesmen and lawyers who could think clearly and wisely, and express their laws in clear and terse language. The legislation of those years marked the commencement of a new era, as "the celebrated Regulations of 1793" marked the commencement of the era of government by law in the

days of the East India Company. The subsequent legislation of both eras was disappointing, and showed a clear falling off from the early promise.

Among the Acts passed in 1859 was Act VII, for regulating the customs duty upon goods imported or exported by sea. It is instructive to consider what the rates of duty were under Act VII of 1859 shortly after India came under the direct government of the Crown and Parliament. Bullion and coin, precious stones and pearls, horses and other living animals, cotton wool and books were free both for import and export. The other free articles of import and export were as follows :—

<i>Free imports.</i>	<i>Free exports.</i>
Grain and pulse.	Sugar.
Ice.	Rum
Coal, bricks and stones (marbles and wrought stones excepted)	Spirits.
Books.	Tobacco.
Machinery for the improvement of the communications and for development of the resources of the country.	Raw Silk.

The general rate of duty upon imports was 10 per cent. and upon exports 3 per cent. *ad valorem*. There were special duties upon the following articles of import and export. :—

*Imports.*

Tea, coffee, tobacco, haberdashery, spices, grocery, provisions, perfumery, plate and plated-ware	...	20 per cent. <i>ad valorem</i> .
Cotton thread, twist and yarn	...	5 per cent. <i>ad valorem</i> .
Porter, ale, beer, and other fermented liquors	...	4 annas the imperial gallon.
Wines and liqueurs	...	2 Rupees " "
Spirits	...	3 " " "

*Exports.*

Grain and pulse of all sorts	...	2 annas the Indian maund.
Indigo	...	3 Rupees " "
Lac dye and Shell lac	...	4 per cent. <i>ad valorem</i> .

The charges made in the rates of duty between 1859 and 1864 were slight, and only in respect of particular articles, the general rate remaining the same as fixed by Act VII of 1859. By Act XXIII of 1864, the general rate of duty upon imports was reduced to  $7\frac{1}{2}$  per cent. *ad valorem*. Act XXV of 1865 made a few amendments and prescribed the following "duties specified in the two schedules A & B annexed to" that Act :—

*Schedule A.—Import duties.*

(1) Bullion and coin ; (2) Precious stones and pearls ; (3) Grain and pulse ; (4) Horses and other living animals ; (5) Ice ; (6) Coal, bricks and stones ; (7) Cotton wool ; (8) Wool, (9) Flax, (10) Hemp ; (11) Jute ; (12) Hides and skins ; (13) Books ; (14) Paper ; (15) Maps and prints ; (16,

Seeds ; (1) Agricultural implements ; (18) Fire wood ; (19) Machinery for purposes of agriculture, navigation or railways, (20) Military uniforms ; (21) Guano and other manure ; (22) Bottles, ... .. Free.

23.	Wines and liqueurs ..	...	One rupee the imperial gallon.
24.	Porter, ale, beer, cider, and other fermented liquors	...	One anna the Imperial gallon.
25.	Spirits ...	...	3 rupees the " "
26.	Iron (not including cutlery or hardware)	...	One per cent. <i>ad valorem</i> .
27.	Hops ...	...	" " "
28.	Tobacco	...	Ten per cent <i>ad valorem</i> .
29.	Piece goods	...	Five per cent. "
30.	Twist ...	...	Three and half per cent. ,
31.	All other articles not included in the above enumeration	...	Seven and half per cent. do.

*Schedule B—Export duties.*

(1) Bullion and coin ; (2) Precious stones and pearls ; (3) Horses and other animals ; (4) Rum ; (5) Spirits ; (6) Tobacco ; (7) Cotton wool ; (8) Flax ; (9) Hemp ; (10) Books ; (11) Maps and prints ; (12) Teak timber ; (13) Coal ; (14) Iron ; (15) Jute ; (16) Coffee ; (17) Tea ; (18) Sugar ; (19) Wool ; (20) Raw hides and skins ; (21) Raw silk, ... .. Free.

22.	Grain and pulse	...	2 annas per maund.
23.	Saltpetre	...	One rupee per maund.
24.	Indigo	...	Three "
25.	Lac dye and Shell lac	...	Four per cent " <i>ad valorem</i> .
26.	All country articles not enumerated or named above	...	Three per cent. <i>ad valorem</i> .

The next Act of importance relating to customs duty was Act XVII of 1867, which introduced the system of fixing a tariff valuation for all articles chargeable with an *ad valorem* duty. It raised the export duty upon grain and pulse from 2 annas to 3 annas per maund, but did not make any other material change in the rates of duty. It is not necessary to notice at any length Act XVII of 1870 and Act XVIII of 1871, which made some changes in the tariff valuation, but very few in the rates of duty. I pass on to the latest phases of legislation on the subject, to Act XVI of 1875, passed during Lord Lytton's Viceroyalty, and Act XI of 1882 passed during that of Lord Ripon. The one was "the beginning of the end," and the other "the end" itself of the customs revenue. These two Acts afford striking illustrations of the disastrous effects upon India of the party government in England. For some time past the good people of Manchester have interested themselves, doubtless from exalted and disinterested motives, about our clothing, and have been persistently representing to the authorities in England that an import duty upon cotton goods was contrary to the true principles of free trade, and that such duty was really a tax upon the people of India for wearing clothes. Now the good people of Manchester have the election of several Members of Parliament in their hands,

and their arguments, therefore, easily convinced both the Conservatives and the Radicals. "Where they do agree, their unanimity is wonderful." The two parties emulated with each other in making concessions to the cotton interest to show their appreciation of its convincing logic.

Lord Lytton, under a Conservative administration, reduced the general rate of import duties from  $7\frac{1}{2}$  per cent. to 5 per cent.; while Lord Ripon, under a Radical administration, repealed the import duties altogether and with them the export duties also, retaining the customs duty only upon the following few articles:—

<i>Imports.</i>	<i>Exports.</i>
1. Arms and ammunition.	Rice.
2. Liquors, wines, and spirits.	
3. Salt.	
4. Opium (not covered by Government pass).	

The loss of customs revenue caused by the two Acts will be seen from the following extract from table No. I at page 121 of the statistical tables for British India compiled in 1888:—

Year	Total customs duty collected on Imports, exclusive of salt.
1873-74 ... ..	£ 1,677,974
1874-75 ... ..	„ 1,814,068
1875-76 ... ..	„ 1,776,896
1876-77 ... ..	„ 1,653,674
1877-78 ... ..	„ 1,875,903
1878-79 ... ..	„ 1,646,665
1879-80 ... ..	„ 1,592,287
1880-81 ... ..	„ 1,771,358
1881-82 ... ..	„ 1,555,237
1882-83 ... ..	„ 431,105
1883-84 ... ..	„ 436,760

The manner in which the two Governments dealt with the import duties seems to be characteristic. The Conservative Government proceeded cautiously and made a reduction in the rates of duty which, owing to a timely expansion of trade, did not affect the revenue in any serious degree. The customs revenue from import duties was £1,814,068 in 1874-75, previous to Act XVI of 1875, and fell to £1,653,675 in 1876-77, after the Act had come fully into operation. The fall was only 9 per cent. The Radical Government, more swayed (as Radical Governments are) by party considerations, and reckless of consequences, repealed the import duties altogether, except on three or four articles which could not well be freed on account of the excise, opium, and salt revenue. The revenue from import duties fell from £1,771,358 in 1880-81 to £431,105 in 1882-83. The sacrifice of revenue was upwards of 75 per cent., being

£1,340,253=Rx 1,795,731. It was 30 per cent. more than the income-tax collected in 1886-87. (See table in Part II.) Is it at all surprising that such a large sacrifice of revenue should disarrange the finances of India, never in a very prosperous condition, or necessitate the introduction of an income-tax to restore equilibrium? However unpleasant it may be to the thick-and-thin, worshippers of Lord Ripon, these facts and figures compel me to say that we must lay the income-tax at the door of Lord Ripon, and that hitherto we had laid it at the wrong door. When the large sacrifice of revenue was made in 1882, all sensible men should have foreseen that it would, at no distant date, bring on the imposition of a direct tax to recoup the loss. It seems to me that Act XI of 1882 was a most impolitic measure, and one of the least defensible acts of Lord Ripon's administration. The reduction of a duty that had been paid for a long time, although it involves a present loss of revenue, does not cause much serious mischief. The Government has always the power of regulating the duty and of raising it, if the exigencies of the State so require. But to repeal a duty altogether is a very different thing. It becomes very difficult for any succeeding Government to reimpose such duty, without incurring an amount of odium and unpopularity which few Governments care to risk. What will the cotton interest of Manchester say? Its good opinion is of great value to any Government.

Although the Act of 1875 was comparatively harmless, while the Act of 1882 was disastrous for the finances of India, yet, all things considered, the moral blame of the repeal of the import duties must be shared equally by the two parties in England. The reduction of the import duties by the Conservatives was a distinct party move and a bid for the Manchester votes. They are, therefore, fully open to the reproach of having first set an evil example, while the Radicals, in following such example, altogether flung moderation to the winds, and surrendered themselves body and soul to the fetish of "party." "The villany you teach me I will execute, and it shall go hard, but I will better the instruction." As soon as their time came, they at once made an abject bid for the Manchester votes by repealing the import duties altogether.

Should the import duties be restored, and how? This is a large problem and one which well merits the attention of Indian statesmen. The Indian finances are by no means in a satisfactory condition. What with the frontier defences, low exchange, periodical famines, and pacification of Burma, with one thing or another always on its hands, the Government of India has for many years found it difficult to make two ends meet. As remarked by the Right Honorable James Wilson in 1860, deficits

seem to be the normal condition of the finances of India. An income-tax was imposed in 1886. The salt-tax was increased from Rs. 2 to Rs. 2-8 for India, and an import duty upon petroleum imposed in 1888. But all this new and increased taxation has not sufficed to make things straight. The salt-tax has reached its limit in India and cannot be raised any higher. It may be possible to increase it in Burma. But the increase of salt revenue in that Province will necessarily be slow and small. The income-tax cannot well be enhanced during a time of peace. Then the revenue from opium is precarious. The present net revenue from that source is upwards of six millions of Rx. (See Table in Part II.) Ought not the Government to make timely provision for the contingency of its loss? That contingency is certain to occur; it is only a question of sooner or later. These considerations induce me to think that the import duties must be re-imposed. I have heard a great deal of cant about free-trade principles, but have been unable to see their applicability to the import duties as they stood at the time of their repeal. The Honourable Samuel Laing says (Financial Statement, April 27th, 1861):—"The principle of free trade is to impose taxes for purposes of revenue only, and if yarn be a fit subject for taxation, there ought to be an excise on the native manufacture, equal to the customs duty on the import article, unless the latter be so small in amount that it would be palpably not worth while to establish a countervailing system of excise. With a 5 per cent. import duty, this might be the case; but, at any higher rate, untaxed native yarn would manifestly be a protected article." This seems to be the true exposition of the principles of free trade. If an import duty be moderate, not exceeding 5 per cent. *ad valorem*, and imposed *bonâ fide* for purposes of revenue and not for the purpose of protecting an article of home produce, it is not contrary to the principles of free trade. With reference to the repeal of the cotton duties, Sir Richard Garth, in his "Few Plain Truths about India" says:—"Of course we all know the true reason for that measure. We all know that it was the pressure put upon England by the Lancashire cotton spinners, although the pretext assigned for it was the plausible one of free trade. But what have we to say with regard to gold and silver manufactures? England's manufactures of that kind have long been admitted into India duty free, whilst similar Indian manufactures are still subject in England to a heavy import duty. Let us hope, from what we hear, that this injustice may soon be discontinued; but it has lasted long enough to make India doubt the sincerity of England's free trade principles. And what have we to say to the Indian tea industry? No men in the world have worked



harder, or under greater difficulties, to establish their position than the tea planters in India. What has England done to aid those men? Have we given them the benefit of our vaunted free trade principles? Although tea is one of the necessities of life, and many people would say, *one of the special necessities of the poor*, Indian tea is now paying a duty to England of six pence per pound, amounting annually, I believe, to upwards of two millions sterling. Is this free trade? Does the duty upon Indian coffee or Indian rice savour of free trade?" Sir Richard Garth's notions of free trade appear to be somewhat hazy. Subjecting the gold and silver manufactures of India to a heavy import duty is, no doubt, contrary to its principles, because it is protective of the same articles of English manufacture. But a heavy tax upon tea or other necessity of the poor has nothing to do with it, because England does not grow any tea which such a tax is likely to protect. It seems that even foreign wheat or other corn may be heavily taxed in England without contravening the principles of free trade, provided that there be a countervailing excise on the British produce. I apprehend the doctrine of free trade to be this, that no Government ought to impose a heavy duty upon a foreign article so as to favor and foster the producers of that article in the country, and by keeping up its price, to make it profitable to them to produce it. The heavy duty falls indirectly upon the consumers. They may make a grievance out of it and complain that they are made to pay a higher price for the article than is necessary, in order that the producers of the home article may thrive. The logical consequences of this doctrine are that every industry, which cannot stand foreign competition, must perish. To adopt this principle in a rich country where the wages of labor are high, would seem to be questionable wisdom. For if the principles were fully acted upon, most of the industries in England must succumb in time to foreign competition. But there is this peculiarity in the political principles of that country, that they are always subordinate to the curse of party consideration. The principle of free trade seems to have been roused into action for the purpose of repealing the corn laws which favored and protected the agricultural interest at the expense of the urban population. Its mission accomplished, it is again dormant and quiet. Neither of the parties in England think of invoking it with reference to the high import duty upon gold and silver manufactures.

It seems to be pretty clear that a moderate import duty, not exceeding 5 per cent., may be re-imposed without a countervailing excise upon the piece goods produced by our mills. Something more may be conceded to Manchester as a sop. It can have nothing reasonable to urge against a low duty of  $2\frac{1}{2}$  per cent. *ad valorem* upon imports. For the rehabilitation

of the customs revenue, I would suggest, as an initial measure, the imposition of a  $2\frac{1}{2}$  per cent *ad valorem* duty upon imports, and a one per cent. *ad valorem* duty upon exports. The duty upon exports should always be less than one-half of the duty upon imports. This has always been the proportion of the two descriptions of customs duty. The freight which imports pay are usually small compared to the heavy freight which exports have to pay. There are other economic considerations, besides, in favor of a low export duty. The duties on both imports and exports being light, there should be very few exemptions. Bullion and coin, precious stones and pearls, horses and other living animals should be free both for imports and exports, but no other articles either of import or export. Special import duties should be retained upon the following articles, *viz.*, arms and ammunition, liquors, wines and spirits, salt, opium and petroleum. There should be no special export duty upon any article. The present heavy duty of 3 annas per maund, equal to 4 or 5 per cent. *ad valorem*, upon rice is a highly objectionable tax. It falls chiefly upon the two Provinces of Bengal and Burma, which export by far the largest quantity of rice. Wheat exported from the several provinces of India is now equal in value to the rice exports. There should be an equal duty upon all dutiable articles of export, and the duty so low that it should not be felt by the producers.

The following extract from table No 4, at page 1888 of the statistical tables for British India compiled in 1888, shows the value of the chief articles of foreign merchandize imported into India in 1886-87, exclusive of articles now paying duty :—

				£.
1	Apparel and haberdashery	...	...	1,001,848
2	Coal	...	...	1,340,049
3	Cotton goods	...	...	29,172,231
4	Drugs and medicines	...	...	393,646
5	Glass and glass-ware	...	...	508,818
6	Hardware and Cutlery	...	...	928,150
7	Machinery and Mill work	...	...	1,429,761
8	Metals, raw and manufactured	...	...	4,845,736
9	Oils	...	...	1,408,430
10	Paper and paste board	...	...	392,621
11	Provisions	...	...	1,179,474
12	Silk, raw, and silk goods..	...	...	2,047,111
13	Spices	...	...	663,845
14	Sugar, refined and unrefined	...	...	2,080,540
15	Umbrellas	...	...	274,461
16	Woollen goods	...	...	1,660,905
17	Other articles, exclusive of arms, ammunition, opium and petroleum, estimated at a moiety of the whole	...	...	3,248,257
Total Rs.				52,576,186

An import duty at  $2\frac{1}{2}$  per cent. upon the above articles, which are now free under Lord Ripon's Act, would produce £1,314,353, a sum very nearly equal to the loss of customs revenue caused by that Act. If it be necessary for the purposes of revenue to raise the duty hereafter to 5 per cent., it can be very easily done. To appease Manchester, it will be necessary to impose a  $2\frac{1}{2}$  per cent. excise upon the cotton goods manufactured by our mills. There is no competition—there never was any—between the Manchester goods and cloth made by our weavers. The two articles are quite distinct from each other. The excise will, therefore, be limited to machine-made cloth, the produce of our cotton mills, and to such portion of it as is consumed in the country. A large portion is exported to China and other countries, which will pay an export duty instead. There is an impression that the assessment of excise will be a matter of some difficulty. Our financiers say, how can we re-impose the import duties without a corresponding excise upon the produce of our cotton mills? They seem to consider this as an insuperable objection. But there does not appear to me to be anything formidable in it. If, for the re-imposition of the import duties, it be necessary to have an excise, let us have it by all means. It will be limited, for the reasons stated above, to such portion of the produce of our cotton mills as is sold to country dealers for home consumption. The mills are few in number. There will be no great difficulty in ascertaining the quantity and value of the exciseable produce from the books of the firms.

In verification of my remarks regarding customs duty upon exports, I append the following extract from table No. 8. at pages 198-199 of the statistical tables for British India compiled in 1888, showing the quantity and value of our chief articles of export in 1886-87, exclusive of treasure :—

ARTICLES.	Quantity exported in 1886-87.	Value.
		£
Coffee ... ..	Cwt. 374,951	1,514,777
Cotton, raw ... ..	" 5,435,862	13,475,963
Cotton goods, including twist and yarn ... ..	.....	5,854,378
Indigo ... ..	" 138,396	3,691,677
Rice ... ..	" 26,460,000	8,764,809
Wheat ... ..	" 22,263,624	8,625,986
Other kinds of grain ... ..	.....	636,819
Gums and resins ... ..	" 243,946	428,513
Hides and skins ... ..	.....	5,149,358
Jute, raw ... ..	" 8,306,708	4,869,815
Jute, manufactures ... ..	.....	1,115,865
Lac ... ..	" 149,439	520,675
Oils ... ..	Gals. 4,322,649	472,719
Opium ... ..	Cwt. 131,630	11,077,671
Provisions ... ..	.....	550,050
Saltpetre ... ..	" 398,113	376,471
Oilseeds and other seeds ... ..	" 15,906,515	9,222,869
Silk, raw ... ..	lbs. 1,708,529	520,313
Silk manufacture ... ..	.....	355,693
Spices ... ..	" 33,321,707	706,661
Sugar ... ..	Cwt. 1,144,718	702,020
Tea ... ..	lbs. 80,557,329	4,883,143
Wood ... ..	.....	302,507
Wool, raw ... ..	" 33,749,121	1,342,807
Other articles ... ..	.....	3,272,508
Total		£88,470,117

The information contained in the above extract will, doubtless, be interesting to my readers, for whose benefit I shall give a few more extracts containing information equally interesting.

Of rice, wheat, and other food grains exported in 1886-87—

		£
Bengal exported rice	valued at	2,302,687
And wheat and other grains		2,842,670
Bombay, wheat and other grains		6,684,672
Burma, rice ... ..		5,540,047
And Madras, rice ... ..		580,038

Of raw cotton and cotton goods, exported in 1886-87—

		£
Bengal exported raw cotton	valued at	1,695,480
Bombay, raw cotton ... ..	" ..	10,337,159
And cotton goods ... ..	" ..	5,302,245
Madras, raw cotton ... ..	" ..	1,375,828
And cotton goods ... ..	" ..	446,424
And Burma, raw cotton ... ..	" ..	67,496

Of our cotton goods, including twist and yarn, exported in 1886-87—

	valued at	...	...	£
China received cotton goods	...	...	...	2 860,149
The Straits Settlements, ...	"	...	...	393,333
Arabia and Persia ...	"	...	...	891,796
And other countries ...	"	...	...	1,156,973

The extract from table No. 4 given above shows the chief articles of foreign merchandize imported into India in 1886-87, now free under Lord Ripon's Act. Their total value is £52,576,186. The value of the other imports of foreign merchandize in 1886-87 being liquors, wines and spirits, salt, arms and ammunition, opium and petroleum, which are dutiable, and Railway materials and stores, mostly for State Railways, is £9,201,165. The grand total of imports is, therefore, £61,777,351. It is less than the exports by nearly £27,000,000. Our exports have always been considerably more than the imports. Two extracts from table No. 1 of the statistical tables are given below, showing the value of imports and exports of merchandize and treasure during the last five years. :—

*Merchandize.*

Years.	Value of imports of merchandize.	Value of exports of merchandize.
	£	£
1882-1883	52,095,711	83,485,123
1883-1884	55,279,348	88,176,090
1884-1885	55,703,072	83,255,292
1885-1886	55,655,865	83,881,264
1886-1887	61,777,351	88,471,117

*Treasure.*

Years.	Value of imports of treasure.	Value of exports of treasure.
	£	£
1882-1883	13,453,157	1,042,059
1883-1884	12,877,963	1,010,307
1884-1885	13,888,198	1,970,030
1885-1886	15,477,801	1,108,237
1886-1887	11,053,319	1,720,516

If we take an average of the five years' imports and exports, it will be found that the excess of exports over imports of

merchandise is about thirty millions sterling, and that of imports over exports of treasure about twelve millions sterling a year. If no money had to be remitted from India to foreign countries, there would be an influx of treasure to the extent of the whole of the excess of merchandise exports over imports—about thirty millions sterling a year. As it is, about twelve millions sterling of treasure remains and is annually absorbed in India. The other eighteen million goes out of the country, the great bulk of it to England, and represents the average net remittances of money to that country per annum. By net remittance, I mean the excess of remittance to, over the remittance from, a foreign country. It appears from the Finance and Revenue Accounts for 1886-87 that the Government of India has to remit annually to England between fourteen and fifteen millions sterling.

Besides the remittances by the Government of India, Englishmen serving or working for gain in this country remit home their savings. Their aggregate remittance is about four millions; the total remittance from India being, on a rough calculation, about eighteen millions sterling a year, as shewn above. But, notwithstanding this large annual efflux, India retains a considerable amount of treasure and is becoming richer every year by about twelve millions sterling. It is not true, therefore, that the country is becoming impoverished under the British rule. It would be a mischievous misrepresentation to say that it was. Yet this seems to be the theme of declamation of a large number of political agitators and grievance-mongers. That the wealth of India in precious metals has greatly increased and is increasing every year is clear from a fact which may be verified in any Hindu family. A generation or two ago the females in well-to-do middle class families wore silver ornaments. Now they will wear nothing lower than gold, with a tendency to rise to diamonds, pearls, and precious stones. Silver ornaments are now worn by the wives and daughters of peasants and labourers, who formerly wore lead and brass.

It ought to be borne in mind that the extensive foreign trade of India is almost the creation of the British Government. Tea, indigo, silk and some other staples of export are almost exclusively the production of British capital and British skill directing Native labor. The same may be said of the Railways, without which there could not be any large export trade in raw produce. Our foreign trade seems to be—

"Twice blessed,  
It blesseth him that gives, and him that takes."

It makes India richer every year by about twelve millions sterling, and England by about eighteen millions. It is a mistake to think that she has taken away, or takes away any

portion of the old wealth of India. She simply takes a share, a very large share, no doubt, of the wealth which she helps India to acquire every year. But there is ample consideration for it. Of the Government remittance to England, amounting to about fourteen millions a year, eight millions, or more than one half, is on account of interest on British capital sunk upon Railways and irrigation works in India, or borrowed by the Government in times of need ; three-and-a-half millions, or about one-fourth, is for the Army charges or cost of British soldiers serving in India ; and two millions for payment of pensions and furlough allowances of European British subjects in the Civil Service of India. The cost to India under the head of General Administration in England is only about a quarter of a million. The amount (about four millions) annually remitted to England by firms or individuals is partly interest on British capital laid out by them in various commercial undertakings in India, and partly their savings or net profits sent home.

MOHINY MOHUN ROY,

*Pleader of the Calcutta High Court,  
and Ex-member of the Bengal Legislative Council.*

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[*To be continued.*]

## ART. VII.—TRIAL OF QUESTIONS OF FACT IN BRITISH INDIA.

I HAVE received ample demonstration, from my daily experience in the courts, that the existing law for the trial of questions of fact requires reformation. The principal defect of which I complain is this, that both in civil and criminal cases as a rule, the existing law allows an Appellate Court to reverse the decision of the Court of first instance upon a question of fact, and come to a finding different from what the Court of first instance arrived at, merely upon a perusal of the evidence recorded by that Court (Section 418, Act X of 1882, Code of Criminal Procedure, and section 540, Act XIV of 1882, Code of Civil Procedure).

The Appellate Court, whether consisting of a single judge or a bench of judges, is entirely without the best means of arriving at a right conclusion upon a question of fact, namely the opportunities of observing the demeanour of a witness while under examination. It is difficult, if not impossible, for the Appellate Court to come to a correct conclusion upon a question of fact merely upon a perusal of the evidence recorded by the lower Court. It may be said that the judge of the Appellate Court is more experienced than the judge of the lower Court. But experience cannot compensate for the want of one of the most useful means of arriving at a right conclusion upon a question of fact; while it may often happen that the judge of the Court below is really more experienced than, or at least as experienced as the judge of the Appellate Court. In the words of Mr. R. Carstairs, in his article "Civil Justice in the Santal Pergunnahs,"\* "an Appellate Court seeking to revise a decision as to facts based on evidence taken by another, would be just as likely to commit an error as to correct one." Blackstone,† speaking of the superiority of *vivâ voce* examination of witnesses over examination by interrogatories, observes: "In short, by this method of examination, and this only, the persons who have to decide upon the evidence have an opportunity of observing the quality, age, education, understanding, behaviour and inclinations of the witness; in which points all persons must appear alike when their despositions are reduced to writing, and read to the judge in the absence of those who made them; and yet, as much may be frequently collected from the manner in which the evidence is delivered, as from the matter of it."

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\* *Calcutta Review* No. CLXXIV. for October 1888, page 345.

† Stephen's Com., vol. 3, p. 620, 4th edition.



It is useless to inquire for what length of time this rule, allowing Appellate Courts to decide questions of fact by a perusal of the record, has prevailed in India. Whatever might have been the practice in Hindu or Mahomedan periods, the rule in question seems to have prevailed in the mofussil Courts, or rather the Sudder Courts and the Supreme Courts, except in criminal trials in the latter Courts, from the commencement of the British rule. The rule, it seems had its origin in the apprehension that a single judge deciding a question of fact, unassisted by a jury or assessors, might come to a wrong decision upon a question of fact, either through inexperience, mistake, or perversity. Regulation VI of 1832 of the Bengal Code empowered, for the first time, European functionaries to avail themselves of the assistance of respectable natives in the administration of civil or criminal justice. Section III of the said Regulation is as follows :—

*III. First.* In the trial of civil suits, original or appeal, it shall be competent to every court, in which an European officer thus empowered presides, to avail itself of the assistance of respectable natives in either of the three following ways :—

*Second.* First, by referring the suit, or any point or points in the same, to a punchayet of such persons who will carry on their enquiries apart from the Court, and report to it the result. The reference to the punchayet and its answer shall be in writing, and shall be filed in the suit.

*Third.* Or, by constituting two or more such persons assessors or members of the court, with a view to the advantages derivable from their observations, particularly in the examination of witnesses. The opinion of each assessor shall be given separately and discussed; and if any of the assessors, or the authority presiding in the court shall desire it, the opinion of the assessors shall be recorded in writing in the suit.

*Fourth.* Or, thirdly, by employing them more nearly as a jury. They will then attend during the trial of the suit, will suggest as it proceeds such points of enquiry as occur to them; the Court, if no objection exists, using every endeavour to procure the required information, and after consultation, will deliver in their verdict. The mode of selecting the jurors, the number to be employed, and the manner in which their verdict shall be delivered, are left to the discretion of the judge who presides.

*Fifth.* It is clearly to be understood that, under all the modes of procedure described in the three preceding clauses, the decision is vested exclusively in the authority presiding in the Court.

By the 4th section the Commissioners of Circuit and Sessions Judges were enabled to avail themselves of the provisions of section three. This Regulation was repealed, as regards criminal cases, by Act XVII of 1862, the provisions of which for trial with assessors or juries were re-enacted in the First Code of Criminal Procedure, Act XXV of 1861, with modifications, while its provisions as regards civil suits were repealed by Act VIII of 1868, but not re-enacted by any subsequent legislation. The

rules of practice laid down by the Sudder Court under the above Regulation, may be found in Beaufort's Digest.

The next defect in the trial of criminal cases that I would point out is, that where a Sessions Judge trying a case with assessors concurs with them in finding an accused person guilty or not guilty, the law in force allows an appeal upon facts. This, in my opinion, ought not to be the law. For the Appellate Court, if it sets aside the finding of the lower Court, runs the risk of coming to a wrong conclusion upon questions of fact. A Sessions judge, concurring with the assessors, finds a prisoner guilty of murder, and the High Court upon appeal, taking into consideration certain circumstances in favour of the accused, acquits him. This gives a great chance of escape to the guilty, and there is no certainty that the High Court would be right in its conclusions. But if the assessors disagree with the judge, in that case alone the law should be such as to allow the Appellate Court to go into the facts. For then the Appellate Court will have before it the opinion of the judge as well as of the assessors, and upon a perusal of the evidence, it may be able to judge which view of the facts was correct. I do not find any good resulting from a trial with assessors except the one above indicated, and I am therefore inclined to think that trial with assessors might be altogether abolished, especially as the minimum number of jurors may be three or only one more than the number of assessors, (Sections 274 and 284 of the Code of Criminal Procedure) and the judge can disregard the opinion of the assessors. I would therefore propose that trial with assessors in Sessions cases be altogether abolished, and that by jury alone be retained. For the law has not attached to a trial with assessors that finality which it has to a trial with jurors. Trial with assessors is no better than trial by a Sessions judge alone: and one of the reasons why I wish it abolished, is because the law gives the Appellate Court power to decide upon paper evidence a question of fact in appeal.

As regards trials by jury, although section 418 allows an appeal in a trial with a jury upon a matter of law only, still when the Court of Sessions submits a case to the High Court for confirmation of sentence of death, the High Court, it has been held, is bound to go into the evidence (sections 374—376 of C. Cr. P., *Queen v. Jaffr Ali*, 19 W. R., Cr. 57.) In *Queen v. Ramsodai Chakrabarty*, (20 W. R. 19,) a verdict of a jury concurred in by the Sessions Judge was set aside, and the prisoner acquitted by the High Court by a majority of two Judges to one, on a submission for confirmation of sentence of death. Again, when the Sessions Judge disagrees with the verdict of the jury, and submits the case to the High Court under

section 307, the High Court is bound to go into the evidence. For the High Court to decide upon evidence in such submissions, is a matter of difficulty when the evidence for the prosecution and the defence is nicely balanced, or in other words, when the weight of evidence on either side is almost equal. The law which allows the High Court to come to a conclusion upon facts in these submissions, infringes the rule for which I am contending that the decision of a question of fact should be arrived at only by the Court which sees the witnesses examined. This is why I would advocate the system of trial by jury, because, in jury trials, questions of fact are finally decided by the tribunal which sees and hears the witnesses. The practice of deciding questions of fact on paper evidence on appeal ought to be stopped.

Now let us turn to the law for the trial of questions of fact in civil cases. The law allows no appeal from decisions of the Court of Small Causes. So far as the Calcutta High Court is concerned, it would not interfere with the decision of a Court of Small Causes upon a finding of fact in applications under section 622 and section 25 of the Provincial Small Cause Courts Act, 1887. Applications under the aforesaid sections are generally rejected by the High Courts, and the applicant has to smart for the loss of his money in making the application. The following is an extract from the speech of the Hon'ble Mr. Scoble in the Legislative Council on the occasion of the passing of Act VII. of 1888 for the amendment of the Code of Civil Procedure :—

“ I will not detain the Council by a detailed reference to the remaining sections of the Bill ; but there is one important omission to which I desire briefly to advert. A recent decision of the Privy Council (*Rājāh Amir Hasan Khan v. Sheo Bux Singh*, L. R., I. A., 237) has given a more limited construction to section 622 of the Code than had been put upon it by the Courts in India ; and many suggestions have been made with a view to the extension of the revisional powers of the High Courts to all cases in which there had been a material irregularity in procedure, or the decision was based on an erroneous view of the law. The Committee have not been able to adopt these suggestions, the more especially as they have been favoured with one by the Chief Justice of Bengal, which would have the effect of doing away with second appeals altogether, and substituting for them a right of application to the High Court as a court of review in all cases in which it could be shown that a failure of justice had occurred. This suggestion, coming from so high an authority, deserves, and will receive the most respectful consideration, and the Committee did not think it desirable to delay their report on this Bill for the purpose of consulting other authorities upon it.”

With second appeals I shall deal a little further on. With respect to Small Cause Court cases, now that the jurisdiction of the Small Cause Courts has been increased to one thousand rupees, I would suggest that trials before officers invested with such powers, in cases above the value of rupees five hundred, should, if the parties so desire it, be with the assistance of a jury of not less than three jurors: questions of fact for the jury and of law for the judge. In case of a difference among the jurors, the opinion of the judge to prevail.

In cases other than those cognizable by the Small Cause Courts, the law allows one appeal in some, and two appeals in the rest. In cases below the value of five thousand rupees there are two appeals successively, one to the District Judge and another to the High Court. Again, in cases above the value of rupees ten thousand, there are generally speaking two appeals one to the High Court, and another to the Judicial Committee of Her Majesty's Privy Council. In cases of the value of above five thousand rupees, and below ten thousand rupees, there is one appeal, and that to the High Court. Besides, in compensation cases and cases transferred from the file of Munsifs and tried by the District Judge, there is one appeal to the High Court. That an Appellate Court, generally speaking, cannot arrive at a right conclusion upon a question of fact merely from a perusal of the evidence recorded by the Court of first instance, can be shown almost to a demonstration in civil cases. In civil cases when no additional evidence is taken by the appellate court, as was taken in *Bigsby v. Dickinson*, (L. R. 4 Ch D. 24 C. A.), or as is occasionally taken in Indian appellate courts, under Section 568 of the Code of Civil Procedure, there is the danger of the appellate courts coming to a wrong conclusion upon questions of fact. How often do we find the decisions of the High Courts, as courts of appeal in civil cases, reversed by the Privy Council, and those of the Courts of first instance restored upon questions of fact.\* And if the decisions of judges of the High Courts upon questions of fact, sitting in appeal, be often erroneous, how can we expect that the decisions of district judges and subordinate judges, sitting singly, (not in benches consisting of two judges as in the High Courts) in appeal, from courts of original jurisdiction in cases of the value of less than five thousand rupees (in Lower Bengal), should be right. It may be said that decisions of Courts of first instance

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\* See Mahomed Buksh Khan v. Hosseini Bibi and others, 1. L. R. 15 Cal. 684. Rajah Run Bahadur Singh v. Mussumat Lachoo Koer, L. R. 12, I. A. 23 (s. c.) 1. L. R. 11 Cal. 301, Bunwari Lal v. Maharajah Hetnarayan Singh, 7 Moore's Indian Appeals, 148 and many others. Several volumes of the Bengal Law Reports show that the Privy Council upset many more High Court decisions than they upheld.

affirmed in appeal by the Appellate Court have sometimes been reversed by the Privy Council.\* The answer is,—though such reversals of concurrent findings are comparatively rare, they are cases in which the Appellate Court, in affirming a decision of the Court of first instance, came to an erroneous decision upon facts. It shows that if the Court of first instance comes to a wrong conclusion upon facts, the Appellate Court instead of being able to set it right, perpetuates the mistake. In *Prubhuram Hazra v. The Bengal Coal Company*, reported in 8 Bengal Law Reports, the Privy Council upheld a decision of the Appellate Court which had reversed a decision of the Court of first instance, but such instances are still more rare. The reason that I would assign for the Sudder Courts or the High Courts having come to wrong decisions upon facts in appeal, is that these Courts had not the best means of coming to a right conclusion upon facts, *viz.*, the opportunity of observing the demeanour of the witness while under examination : and though the law enjoins the Courts of first instance to record any remarks as to demeanour of a witness in the witness-box, neither is it practicable to record all sorts of gestures made by witnesses, nor is it always done ; nor, even if recorded, would the Appellate Court pay much attention to it.

Many a man will say : How then does the Judicial Committee of the Privy Council arrive at a conclusion of fact upon a perusal of the evidence recorded by the Court of first instance in appeals from India ? To this I would answer : True, the Judicial Committee arrives at conclusions of fact just in the same way as our Indian Appellate Courts do but you cannot deny that as regards the credit to be attached to the evidence of a particular witness, their Lordships pay greater regard to the opinion of the Court of first instance than our Indian Appellate Courts do. Again, from the necessity of the case, the Judicial Committee must decide upon evidence recorded in the courts below, for who can think of witnesses being carried over the sea to give evidence before the Judicial Committee, whereas witnesses already examined by the Court of first instance may be produced before an Indian Appellate Court, though at the risk of some inconvenience to the witness, and of additional expense to the parties. And here I may be allowed to observe that in framing section 428 of the Code of Criminal Procedure and sections 568, 569 and 570 of the Code of Civil Procedure, the legislature ought not to have lost sight of the principle, that a court empowered to decide upon oral evidence, should see and hear the witnesses itself, and ought to have enacted that any

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\* *Chett Ram v. Chowdhree Nowbut Ram*, 7 Moore's Indian Appeals, p. 207.

additional oral evidence, when allowed to be taken in appeal, *must* be taken by the Appellate Court itself and not by any other Court just in the same way as, in the Chancery Division of the High Court of Judicature in England, witnesses are now examined *viva voce* before the Court of first instance, instead of before examiners as was formerly the practice (see *Bigsby v. Dickinson* already referred to above). But, as a matter of fact, the Legislature seems to have wished to make the work of the Appellate Courts as easy as possible (see also sections 375 and 380 of the Code of Criminal Procedure). The duties thrown upon the Appellate Court are not commensurate with the power given to it

In a very large proportion of civil suits, *e. g.* in suits relating to land, and suits between landlord and tenants (but not suits cognizable by the Courts of Small Causes) of the value of less than five thousand rupees, a second appeal is allowed in Lower Bengal to the High Court, (see Section 584 of the Code of Civil Procedure, the Bengal Civil Courts Act, and section 153 of Act VIII of 1885.) Section 584 of the Code of Civil Procedure lays down in what cases a second appeal shall lie, and section 585 lays down that a second appeal shall not lie except as provided by section 584. The meaning of the two sections taken together is, that no appeal shall lie against a finding of fact. There is no definition of what is a finding of fact in the Code. The law leaves it to the breast of the judge or judges too much to say where a second appeal shall lie and where it shall not lie. In second appeal, the judges of the High Court will sometimes partially or fully go into the evidence and sometimes not. The law where a second appeal will lie, and where a second appeal will not lie is a matter of much uncertainty. A suitor who has won his case in the Court of first instance upon facts, but has lost it upon facts in the Court of first appeal, is almost sure to file a second appeal to try his chance, though it may be that every pleader whom he consults distinctly gives him to understand that there is no chance of success. He will not or cannot believe that the High Court would not do justice. As to the suggestion of Sir Comer Petheram, I have not had the opportunity fully of reading his views upon the subject. I take his Lordship's suggestion to be, that the decision of the lower Appellate Court, both upon a point of law or point of fact, should be final, unless the unsuccessful suitor in the lower Appellate Court be able to satisfy the High Court by way of motion, both upon the facts and the law of the case, that the decision of the lower Appellate Court is unjust, in which case the High Court shall have power to set matters right and do justice between the parties. This suggestion though it seems to be good in theory would not, I apprehend,

be really beneficial in practice. We know very well how the powers given to the High Court under section 622 of the Code of Civil Procedure are exercised, and how second appeals have fared under the test of 551 of the Code of Civil Procedure. The object of his Lordship's suggestion might be attained by enacting that, in second appeal, the High Court shall have full power to deal with the facts of the case : and that if the appellant, in second appeal, wants to dispute the findings of fact arrived at by the lower Appellate Court, he should give notice thereof to the Registrar of the High Court, and that thereupon the appeal should be heard and dealt with as an appeal from an original decree. Although I have an antipathy to all laws which give power to Appellate Courts to decide questions of fact upon paper evidence, I would not object to a change in the law as proposed above, as, in order to set right an erroneous finding of fact arrived at by the Court of first appeal, suitors have now to move the Judicial Committee to allow them to appeal to Her Majesty by special leave—a most costly machinery, and one which only rich people can afford to avail themselves of.

Now let us consider how the evil of which I complain, *viz.*, the decision of questions of fact by Appellate Courts on paper evidence can be remedied. The first as well as the best remedy in my opinion, is that in the class of civil cases which the Legislature would consider sufficiently important to deserve such a mode of trial, the trial should be with jury, on the application of any one of the parties. This would be a revival of Regulation VI. of 1832, with modifications, as regards civil suits.\* In trials by jury in this country, as the English system of trial by jury has not been introduced into India in its entirety, the judge's opinion upon any point of fact should be counted as at least one vote (if not two; in counting the majority of votes. The second remedy that I would propose is, that when a case is heard in the first instance by a single judge, the findings of fact properly arrived at by him should be final, and an appeal should be allowed from his decision to the High Court direct, but only upon a point of law. If the Appellate Court directs him to take any additional evidence, his opinion on that additional evidence should also be final. The taking of additional evidence by the Appellate Court is an anomaly : either that Court should try the whole case over again, or should take such additional evidence through the Court of first instance, and be bound by the opinion of that Court as to its credibility. The third remedy that I would propose is, that when the trial in the Court of first instance is by a single judge, and the Legislature thinks it advisable to allow an appeal upon facts from the decision

\* In *Rai Sri Kishen v. Rai Huri Kishen* (5 Moore's Indian Appeals, p. 432)

of the Court of first instance, the Appellate Court should be bound to re-examine the witnesses already examined by the Court of first instance, and it should have power to use the evidence recorded by the Court of first instance in case of the death of the witness, &c., as provided by section 33 of the Evidence Act. The objection \* to this method is that the witnesses should be twice put to the inconvenience of appearing in the same cause to give evidence, once before the first Court, and again before the Appellate Court. Of course, the judgments of the Appellate Courts should then be declared to be final upon questions of fact, and in cases of the value of less than five thousand rupees, where second appeals are now allowed by law, a second appeal should lie to the High Court only upon a point of law.

Some people may ask : Has not the method of trying questions of fact by perusal of recorded evidence prevailed in India from the commencement of the British rule ? To this I would answer : If this practice has produced mischief in the past and is producing mischief in the present, surely we ought not to retain it any longer. A wrong principle of legislation once introduced is not easy to get rid of, and people who have become familiar with it do not easily see the evils arising from it.

The principle which underlies trial by jury in civil as well as criminal cases in England, and still prevails to a certain extent under the Judicature Act, is that questions of fact should be decided by that tribunal alone which sees and hears the witnesses. In England, in case of an appeal from a verdict of jury, if the Appellate Court reverses the finding of the jury as unreasonable and against the weight of evidence, it must send the case back to the Court of first instance for a new trial before another jury (*Metropolitan Railway v. Wright*, L. R. 11 App. C. 156) Perhaps the practice which was introduced into India was borrowed from that of the Court of Chancery in England. There cannot be any doubt that the practice of the Courts of Common Law was superior to that of the Court of Chancery in this respect. In the Common Law Courts the Appellate Court could not come to an independent finding of fact from a perusal of the record. I use the past tense because I do not know whether, when a single Judge decides a question of fact, under the option given to the parties under the Judicature Act, an appeal is now allowed upon facts in the Queen's Bench Division.

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\* [The Appellate Court should be bound to re-examine the witnesses only if, on a perusal of the evidence, it considered that the decision of the first Court on facts ought to be upset : but not if it was inclined to concur in the finding. This would prevent the needless re-examination of witnesses.—ED.]



At any rate the comparative merits of the system for trials of questions of fact in India and that of England require thorough discussion. It is my conviction, derived from considerable experience, that an Appellate Court should not be permitted to upset a finding of fact merely on a perusal of the record.

ROMESH CHUNDER BOSE,

*Vakil, High Court.*

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We should like to add a few words to the foregoing essay regarding the too prevalent habit of upsetting findings on pure questions of fact.

Presuming the honesty and average intelligence of the Lower Court, we are quite at one with the Reviewer on this point. The rash manner in which some Sessions Judges and District Magistrates upset the decisions of Lower Courts on pure questions of fact is simply deplorable, and most antagonistic to the cause of justice. Flimsy doubts and trivial discrepancies are allowed to prevail over the deliberate and well-considered opinion of a tribunal, which has seen and heard the witnesses, and considered every point in the case in a far more careful and thorough manner than the Appellate Court can have time to do. Of course, pleaders flatter the Appellate Court on its superior acumen, knowledge of the country, &c., in order to get a favourable decision: but I am only giving expression to a well-known fact, when I say that pleaders have a very low opinion of a Court, which often upsets the findings of Lower Courts on facts. Sir James Stephen remarks, in his minute on the Administration of Justice in British India: "Every system of appeal assumes the superiority of the Appellate Judge over the Judge of First Instance. This assumption fails in many cases in relation to Judges in India. Nothing is added to a man's real efficiency by calling him a Sessions Judge or a High or Chief Court Judge instead of a Magistrate, and by paying him a higher salary. My own opinion is, that mere length of service, after a comparatively short time, adds nothing to a man's efficiency. Most people, after a few years, are quite as good Judges as they ever will come to be." After speaking of England, Sir James Stephen says: "In India matters are different. No doubt an experienced man will differ from a new-comer. A full-power Magistrate will be, in every way, superior to an Assistant or Deputy Magistrate; but a Sessions Judge is simply a Magistrate grown rather older, and a High Court Civilian Judge stands in many cases in the same relation to a Sessions Judge, though the smallness of the number

of High Court Judges, especially in the Presidencies of Madras and Bombay, is undoubtedly a guarantee for a higher level of ability amongst them than amongst the Sessions Judges. . . . With regard to the other Courts, I cannot see what reason there is to suppose that the Appellate Judges (except the Magistrates to whom an appeal lies from their subordinates should, as a rule, be abler men than the Judges from whom the appeal lies. Their superiority appears to me to be likely to be merely conventional, resting, not upon any personal difference between the men, but upon a difference between the names of their offices. . . . I cannot see what general grounds there are for supposing that, when the appellate and the inferior Courts differ, the Appellate Courts should be right and the inferior Courts wrong." It may be remarked that now-a-days a Sessions Judge is not a Magistrate grown older: the latter may be senior to the former. "Whether the course taken be appeal, reference, or revision, the proceedings, consisting of the notes of the evidence, the judgment of the Court, are forwarded to the superior Court, which, as a general rule, decides entirely on written depositions. The law, no doubt authorizes Appellate Courts to direct further inquiries, new trials, &c.; but in practice this is seldom done, and when it is not, the process of appeal is simply this: the Court reads the record and the Judge's reasons, hears the advocates (if any), and decides according to the impression which these documents make upon it. This may be the best mode of hearing appeals which is practicable, but it is very unsatisfactory. Whatever may be the intrinsic superiority of the Appellate Courts over the Courts of First Instance (and this in many cases is very doubtful), they certainly have not equally good materials for their judgment, for *they judge upon hearsay evidence*, namely, the Judge's report of what the witnesses said." The italics are ours. The Appellate Court, which would be horrified if the lower Court admitted hearsay evidence, actually upsets decisions on similar evidence. This appears to be extremely presumptuous. In rare instances an incorrect decision may be remedied; but in far more numerous instances a correct decision is reversed. Sir James Stephen says: "The chance that the first decision will be right is better than the chance that any subsequent decision will be right, *particularly in criminal proceedings*." As regards alleged incompetency or corruption, Sir James Stephen says: "Even when Judges are incompetent or corrupt, they will, as a rule, give many more right judgments than wrong ones. Most cases are very plain. Generally speaking, it is both easier and more creditable to give a right judgment than a wrong one. Even if a bribe is given, it is quite as likely to be a fee for doing justice

as to be a fee for doing injustice. Hence the right to appeal is, as a rule, a right to contest a righteous judgment. The appeal will be brought more often by a man, who does not like to submit to a right judgment, than by a man who is aggrieved by a wrong one." He also points out that an absolute right to appeal reduces Courts of first instance to insignificance; that the Court, whose judgment is to have no weight, has proper materials for forming an opinion, while what ought to be a good Court is given bad materials for forming an opinion upon a subject on which its judgment is to be conclusive; and that double appeals reduce the intermediate Appellate Judge to the position of a superfluity.

Lower Courts—always given the conditions noted above—are no more likely to convict innocent persons than Appellate Courts. The more able an appellate tribunal, the greater its knowledge of the language the country, and the people, the less likely is it to upset the finding of a lower Court on a question of fact. It seems almost a self-evident proposition that an Appellate Court, which often upsets the decision of a lower Court on a pure question of fact, is unfit for its responsible position; it is convicted by its own action of weakness, inefficiency, or laziness, or a combination of all three. Of course the Appellate Court may be a better judge of the amount of punishment; native Deputy Magistrates seem to go wrong very often in this respect. Moreover, the law may be wrongly applied to the facts. But if the issue is simply—"Did such an occurrence take place, or did it not?" and the lower Court finds that it did, the Appellate Court should be *debarred by law from upsetting such finding except after hearing the complainant and at least one eye witness*. The demeanour of the witness is *everything*, especially in criminal cases. The legislature has recognized this in making it *compulsory* for a Criminal Court to record material remarks regarding demeanour, (Act X, 1882, Section 363), whereas it is only optional for a Civil Court to do so (Act XIV, 1882, Section 188). It is now high time for the Legislature to shorten the ladder of appeal in the interests of the people and of justice. No doubt there will be opposition to such a measure from a comparatively small class. There are, no doubt, some who would not be satisfied if the ladder were as long as Jacob's ladder: they would still want a further appeal from the *forum cæli* to some "higher authority." But it is against such persons—unscrupulous and wealthy litigants, inferior legal practitioners, "torneys" and touts—that a beneficent Government should legislate, and not in their favour. We believe it is not an uncommon native feeling that it does not much matter if a criminal gets off: native sentiment has

not sufficiently broadened to recognize that public interests are as important, if not more so, than private interests. A civil suit may involve a few rupees on a bond, or a dispute as to whether a man's rent is Rs. 16 or Rs. 20. Surely a criminal case, even if not serious, is of at least as much importance. In a civil suit only property is at stake: in a criminal case life also, and honour, dearer than life, may be at stake. The prosecutor who has brought his oppressor to justice, and then sees him get off scot-free in a Appellate Court, is surely as much to be pitied as a poor civil suitor unable to cope with a more wealthy litigant: there is oppression in both cases, but that which comes to the criminal court is probably of a more serious and aggravated character. As things go at present, much valuable time and power is lost in the lower Court by having to fortify the record against the "*ineluctabile fatum*," the Appellate Court. If an Appellate Court is prone to upset, the pleaders merely appear in the lower Court to "prepare the record" for an appeal. This may seem exaggeration, but it is not so. If some evidence is objected to by the lower Court, some question allowed or disallowed, some attempt made to check irrelevancy, the matter is fought out, and the Court is pressed to make a full note of the objection, on the ground that "it may be of service to my client in a higher Court!" If this is the function of a Court of first instance, it would be better and cheaper to have the depositions faithfully recorded by some tortoise of a mohurir on Rs. 10 a month.

The evils of unlimited appeal are conspicuous to all who have had considerable experience of the administration of justice in this country. The evils far outweigh any possible advantage there may be in such a system. There is far too great a tendency for some Appellate Courts to upset the decisions of lower Courts on pure questions of fact; and we believe we are correct in stating that this is the opinion of the present Chief Justice of Bengal. In our opinion, the evils resulting from unlimited appeals are such as call for remedy at the hands of the Legislature.

H. A. D. PHILLIPS.

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## ART. VIII.—THE NOVELS OF EMILE ZOLA.

**I**T was remarked, by Fletcher of Saltoun that he would be indifferent as to who made the laws of a nation, if he were only allowed to write its ballads: for the current literature of a people is a powerful agent in the formation and the cultivation of the tastes and habits of thought which it afterwards unconsciously reflects. The Novel of the nineteenth century has taken the place in popular literature of the ballad of the middle ages: and we gladly hear that it has been lately ruled in an English court of law that the English translations of the works of the French novelist, Emile Zola, come within the scope of Lord Campbell's Act as indecent literature, and are to be suppressed accordingly. Yet these translations are only a pale reflexion of the vivid language of the originals, which may be seen exposed for sale on the counters of the most respectable booksellers on the other side of the Channel.

The English translator had at least so much insular prudery left as causes him to throw a decent veil of inference and innuendo over the numerous passages where the great Master of the Modern Realistic School of novel-writing calls a spade a spade with the unblushing effrontery of the savages discovered by Captain Cook. Hence the English reader who searches the pages of "*Nana*," or "*l'Assommoir*" to gratify a prurient curiosity will most likely be disappointed. M. Zola himself disclaims the intention of ministering or pandering to any such curiosity. His office, according to his own shewing, is merely to hold the mirror up to nature: his plain speech is not the utterance of the guilt of fallen humanity, but of the pastoral innocence of the Garden of Eden. It is the nakedness of the untutored savage or of the Grecian statue, and not the nakedness of the Coryphée of the ballet, or of the Persian photograph. Why should the mention of the most ordinary and most natural actions and functions, the knowledge of which is universal, be universally tabooed and condemned?

It is perhaps a false modesty begotten of a corrupt civilization and a degenerate social order, that confounds in the mind what is harmless and natural with what is vicious and criminal in a common repugnance and reprobation. A state of pure innocence of evil would be like that of our first parents in Paradise before their fall, who were naked and were not ashamed:

and this is the ideal state to which the innocent M. Zola wishes the modern world to return. This is 'much the same apology as the American maniac who calls himself a poet, Walt Whitman, puts forward to excuse his own offences against the laws of decency as observed by civilized people: and of course is as impudent a perversion of truth and right as the use of the motto—"to the pure all things are pure," which Sir Richard Burton has cynically affixed to his faithful translation of the unexpurgated version of the Thousand Nights, which he raked out of the stews of Cairo. We regret to see that this abominable book is on the shelves of several public libraries in India: while the translations of Zola's novels, which have just been condemned as unfit for publication in England, are now exposed for sale on the railway bookstalls in India.\* However, they will probably do little harm, as their original indecency has been much toned down, and the books themselves are too dull to tempt a casual reader to wade through them. This, however, is the fault of the translation: for the style of Zola suffers as much in an English translation, as that of Dickens would in a French one; and, moreover, the translations are badly and carelessly done: there are mistakes in every page, while, owing to the general incapability of the translation the spirit of the original has quite evaporated.

Zola may be called the Dickens of France in a certain sense, though he is no humourist as was Dickens; still, in his knowledge of human nature, his sympathy with the poor, and the detail of their daily lives, in his minute and accurate observation of every petty trick of gesture and speech and trait of character, with every minute detail of still life, he comes close to the great English novelist. His characters are eminently natural: they are real living men and women, without the travesty of caricature which spoils the naturalness of most of Dickens' characters, although it heightens the amusement of his readers.

It is the faithful representation of life as it really is, that forms the chief charm of these novels of Zola: and as might have been expected, his realistic pen has found in the sordid details of poverty and misery more attractive subjects than could be found among the easier and less chequered existence of the well-to-do classes. When Zola takes an occasional flight into the regions of the sublime and the romantic, he is as great a failure as Dickens was under the same conditions:

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\* [From a letter which appeared in the *Pioneer* of the 22nd February last, it would appear that the translations for sale at the bookstalls of Messrs. Wheeler and Co., are not the literal translations of Messrs. Vizatelly and Co., but those of Messrs. Peterson of Philadelphia, which are said to be unobjectionable or less objectionable.—ED.]

and nothing can be more ludicrously unlike the passions and actions of human beings, than the story of the loves of Serge and Albine in the "Tante de l'Abbé Mouret."

Zola's novels are in striking contrast to the style of romance which has hitherto dominated French fiction. Balzac, Eugene Sué, Dumas and George Sand may be taken as typical authors of the romantic school with its wondrous tales of Sybaritic luxury and more than oriental grandeur, whose dark and mysterious heroes quaffed the purple wine, and whose heroines were beautiful and loveable ladies of the *demi-monde*, who revelled in every luxury, and illustrated every virtue except that of chastity. These wretched productions painted vice as a manly accomplishment, and the acquisition and enjoyment of wealth as the aim and end of human endeavour. The striking general decay of courage and virtue in the sons of modern France may probably be traced, in a great measure, to the universal prevalence of this pernicious literature, with its flabby sentiment and false morality.

Zola's books are almost a relief after Monte Christo and the Three Musketeers. His colliers and washer-women, coarse and foul-mouthed though they may be, are refreshingly human after the bravos and masked ladies whom we never saw anywhere except on the stage of transpontine melodrama. And Zola at all events seeks to throw no halo over vice. In "Nana," his heroine does not recline, decked with pearls on amber satin cushions, and puff scented cigarettes, while her curled and perfumed adorers entertain her with their witty and graceful *persiflage*. On the contrary, the repulsive reality, the disgusting discomfort of her ways of life, are portrayed with a photographic fidelity: and the reader rises from its perusal with a holy horror of the vice which she typifies. "L'Assommoir" is the title of a drinking tavern which gives its name to the miserable story of a humble home ruined by drunkenness; and no apostle of Total Abstinence could have penned a more convincing and more eloquent picture of the debasing and degrading effects of that horrible pest of society. After reading "L'Assommoir" the most seasoned toper feels inclined in spirit to forswear the service of the fiend who has enthralled him, and to vow himself a Rechabite for ever.

Hence Zola's works, in spite of their indecency, can hardly be termed immoral.

If treating of immoral subjects be immoral, then our author must certainly be condemned along with the *Pall Mall Gazette*, and other similar publications, which justify their own existence by a high moral purpose, and advocate the cause of purity and temperance in language which, we very much regret to say, is often foul and intemperate. M. Zola also claims that he is

carrying out a high moral purpose in the remarkable series of novels that continues to flow from his facile pen. He is, in his own estimation, a Juvenal, arisen in these days to lash the follies of a modern world settling down into a social and moral corruption like the degenerate Pagan world of the Roman Empire: and so far as modern French society goes, if his books at all faithfully mirror the condition of that society, his contention may be true. If we take popular literature as a standard of the public taste, it would not be easy to find a more striking illustration of the difference existing between the manners and customs of France and England in the matter of social decency and Press morality, than the fact that the works of the most popular and most widely read of modern French novelists render even Bowdlerized translations in England liable to criminal prosecution. To keep the stream of literature pure and undefiled is a worthy object for the legislature, and we hope to see such measures one day taken in India as may prevent the circulation, not only of the translations of French novels, but of such poisonous trash as Burton's edition of the Arabian Nights, and the prose stories in the first part of the *Kulliyat-i-Kaání*.

No doubt M. Zola's vast popularity in France arises mainly from his marvellous fidelity in portraying the most commonplace incidents of daily life, and the characters and actions of men and women of the work-a-day world as they really are. He has taken, at the flood, the tide of re-action which was inevitable against the theatrical plots and fairy-tale characters of the novels of Balzac, Dumas and their *confrères* of the romantic school. The flagrant indelicacy which disfigures his works does not furnish, as in the novels of Paul de Kock, the "*raison d'être*" and the turning point of the story, but is introduced incidentally, and as a matter of course.

But the fact is that the taste of the French reading public has been so depraved by the productions of the filthy writers of the school of Paul de Kock and his tribe, that no novel has a chance of success which does not pander to the vulgar appetite: and Zola has outdone his predecessors in this respect, by tickling the jaded palate of his public with food stronger and coarser even than its accustomed literary garbage.

His earlier novels and tales were of the usual type of sensational French fiction, but his reputation was founded by the series of books called "*Les Rougon-Macquart*," the history of the successive generations of the connected families bearing those names to which all his famous works belong, and of which he has already published some dozen volumes, commencing with "*La Fortune des Rougons*" which sets forth voluminously the history of the origin and rise of the family.



The author announced a two-fold object in the production of this series: the tracing of the principle of heredity through all the various members and stages of descent of a family: a kind of Darwinian development of the qualities of the human being in his or her descendants as modified by individual character and the force of circumstances: and secondly, an exposure of the rotten state of society under the Empire of Napoleon the Third, and the social corruption of which it was the cause.

"La Fortune des Rougons" is the first novel of the series, treating of the birth and youth of Pierre Rougon, and the rise of his family into importance along with the Second Empire on the success of the Coup d'Etat of December 1852. An old *propriétaire*, living in a small country house on the outskirts of the town of Plassans in the south of France, has an only daughter named Adelaide, a nervous and weakminded girl, who falls in love with her father's gardener, a stolid peasant of the name of Rougon, and marries him on her father's death. They have one son named Pierre; and Rougon dying in the boy's infancy, Adelaide falls into the clutches of a dissolute scamp named Macquart, a smuggler and a poacher, by whom she has two children, Antoine and Ursule.

Macquart is shot in a smuggling fray by the *gens d'armes* on the Spanish frontier, and poor Adelaide loses the little wits she had ever possessed. The three children grow up together: and Pierre, who unites the stolidity of his peasant father with the *bourgeois* cunning of his maternal grandfather, gets his mad mother and her property entirely into his own hands, and contriving to evade the conscription himself, gets his half-brother, Antoine Macquart, drafted into the army with which the Great Napoleon was then fighting the Allies in Spain and Germany. Ursule is married to a tradesman of Marseilles; and Antoine comes back to Plassans as a discharged soldier after Waterloo, and a thriftless ne'er-do-weel, sponging on Pierre Rougon who has robbed him of his share of his mother's property. All these three have children and grand-children, and the life of each of these forms the subject of one or more novels of the series. Pierre Rougon makes a good marriage, and his clever managing wife proves a greater fortune to him than her dowry. Their eldest son Eugene goes to Paris to study law, and there attaches himself to the fortunes of the Prince Président, is admitted into his secrets, and is thus enabled to advertise his father of the coming *coup d'état*, which Pierre Rougon parodies in Plassans with the aid of the local gendarmerie and a couple of dozen of the bourgeois tradesmen, whom his energy and the tact of his wife Felicie induce

to follow him, shaking in their shoes. A counter demonstration by the revolutionists of the neighbourhood is opportunely quelled by the arrival of the troops who suppress it with merciless severity. Silvére, the son of Ursule Macquart, is living at Plassans with his crazy old grandmother : a simple and enthusiastic youth, devoted to virtue and liberty, with the devotion of a Frenchman to an unrealizable ideal. He falls in love with Miette, a waif employed as a drudge on a neighbouring farm, and the loves of Silvére and Miette form a pretty idyll, too romantic for Zola's pen. Silvére joins the insurgents (or patriots) ; Miette follows him and is killed by a chance ball ; and Silvére, stunned and stupefied by the blow, is taken by the victorious troops beside her dead body, and his dream of the triumph of liberty and virtue ends in his having his brains blown out in cold blood by his captors. The shock and horror of his tragical end prove the death of his doting old grandmother.

"Son Excellence Eugène Rougon" contains the story of the eldest son of Pierre, who becomes a Minister of the Emperor after the *coup d'état* : a strong, brutal, cynical man of the world, fond of power, and despising pleasure : surrounded by sycophants and office-seekers. With no faith and no principle, always ready to betray the master who has made him if he can thereby serve his own ends, he might be a Turkish or a Persian Vizier but for his fortitude and energy. He typifies the adventurers who made their own fortunes in the elevation of Napoleon the Little : while his admired fair one, Clorinde, who combines a sublime disregard for virtue and honour with a fanatical devotion to religion and to the person of the Holy Father, is a personification of the policy favoured by the Empress Eugénie and her Court. The scene of the story is laid sometimes in the Imperial Palaces amidst a tinsel imitation of the splendours and scandals of the old Royal Court of Versailles. Zola is, as we should judge from his writings, a socialist, or at all events, an advanced republican : and he does his best to cast discredit on the Imperial régime : but contemptible as Louis Napoleon and his courtiers may have been, we arise from the perusal of their follies with the conviction, that it is the corruption of the whole nation which we see reflected in the Court.

"La Curée" (the ceremony of cutting up the carcase of a slaughtered deer) is the title given to the story of Pierre Rougon's second son Aristide, a man as base and false as his elder brother, but infinitely more contemptible : physically weak and morally cowardly, and greedy not of power, but of gain. He was already married, and had made but a failure of his life when his brother's success gives him a fresh start ; and

the death of his first wife enables him, by trickery and false representations, to gain the hand of the fair Renée, the daughter of a wealthy retired tradesman. He becomes a speculator in land and buildngs during the Haussman renovation of Paris, and a gambler on the Bourse, taking the name of Saccard to conceal his relationship to his brother Eugène, to whose secret patronage his success is due. He lives in splendid misery, his sordid soul fevered with the hazards of speculation, his proud, reckless and beautiful wife abandoned to her own devices and the society of the scamp Maxime, her husband's son by his first marriage; with whom she plunges into an abyss of vice, and finally dies of consumption, leaving her enormous debts to be paid by her father.

Antoine Macquart, Pierre Rougon's half-brother, has married a hard working woman who supports him in idleness while he spends her earnings at the wine shop. They have two daughters, Lisa and Gervaise: the former goes to service in Paris, pleases her mistress, and marries a *charcutier*, named Quenu, with a thriving business. *La belle charcutière*, as Lisa Quenu was called in their street, is the central figure of "Le Ventre de Paris," a description of the life of the Halles or great markets of Paris, with which is interwoven the history of one of the abortive conspiracies against the Empire hatched in cellars and garrets, and ending in the deportation of the would-be revolutionists to the swamps of Cayenne. A connexion of Lisa's husband and a lodger in his house is the leader of the plot: and Lisa becoming aware of his intentions by perquisitions in his room, her bourgeoisie horror of riot and revolution is aroused, and she denounces him to the Police, and his end is Cayenne.

Quenu and Lisa his wife both dying leave an only daughter Pauline, a noble girl with the physical and moral uprightness of her mother, whose story fills the volume of the series sarcastically entitled "Le Joie de Vivre." Left an orphan when a child, she is adopted by relatives of his father to whose necessities she sacrifices her little fortune. She is engaged to her cousin, a well meaning but vacillating youth, who forsakes her for the first pretty face he sees: after a frightful struggle with her own feelings, for she really loved him, she releases him from his engagement in favour of her rival, and earns the reward of seeing them both thoroughly miserable after they are married. Labouring continually for the happiness of others, the only result of her unselfish endeavours is to leave every body unhappy including herself.

The life of Lisa's sister, Gervaise Macquart, is the miserable story contained in "l'Assommoir," the name of the low drinking-shop where the ruin of herself and her family is consummated.

The story has been made familiar to the English public by the dramatised version of it called "Drink," introduced upon the London stage: and nothing more pitifully true to life has ever been written than the gradual ruin of poor Gervaise from the curse of drink which first overtakes her husband, and then involves her in his misery. The "*facilis descensus Averni*" of the drunkard was never more powerfully and graphically portrayed by the pencil of George Cruikshank, and it was *l'Assommoir* that firmly established Zola's reputation as a great novelist. Gervaise dies in misery in a common lodging house, and her husband Coupeau in a mad house, leaving one daughter, Anne Coupeau commonly called Nana, whose story furnishes material for the volume called by her name. She quits her miserable home for the streets during the lifetime of her parents, and appears in the opening chapter of "Nana" on the Parsian stage supporting the chief character in a play called "La Blonde Venus," a reminiscence evidently of "La Belle Hélène" in which Schneider took the French capital by storm. Though Nana can neither act nor sing, her *clac* demeanour and impudence and undraped charms make the success of the piece, and place her in the top ranks of her miserable calling, through all the sordid vicissitudes of which unsavoury career the story follows her, till she dies miserably of confluent small-pox, caught from her own neglected child, the scrofulous offspring of an unknown father.

Into this volume Zola has had the boldness to introduce the "Prince d'Ecosse" as one of the characters: the Prince, "grand mangeur et beau buveur," is represented as enjoying the gay life of the Parsian capital as the guest of the Emperor and Empress: and the last sounds in the ears of the dying "Nana" are the shouts of "A Berlin à Berlin" raised by the populace in the streets on the occasion of the outbreak of the Franco-Prussian war. "Germinal" (Seed-time) and "L'Œuvre" (Art) contain the stories of Nana's half-brothers, Etienne and Claude Lantier, the sons of Gervaise Macquart by the latter Lantier, with whom she first came to Paris before she met and married the *ouvrier* Coupeau. Etienne is apprenticed to a smith and becomes eventually a miner: and "Germinal" is a description of the life of a coal-mine, of the brutish misery of the miners and their families, of the unfeeling hardness of the masters, of the tyranny of middlemen and truck-dealers, the picture of the state of things familiar to Englishmen of the last generation so graphically portrayed by Disraeli in his novel of "Sybil:" a state of things now happily passed away in England. The book is an epitome of the never-ending dispute between labour and capital written from the point of view of the labourer, and directed against the tyranny of the hateful

*bourgeoisie*: for since there is no aristocracy left in France, the bourgeois middle class has taken its place as the object of the hatred and envy of the lower classes. One of the characters of the book is a Russian nihilist or socialist, a well-educated engineer, who has engaged himself in the mine for the purpose of spreading his nefarious propaganda: to make a *tabula rasa* of the existing world is to him the only remedy for its evils, and the only means of inaugurating the era of universal innocence and happiness which is the god of his desires: and he works with the energy of a giant and the cunning of a fox to accomplish all the mischief that he can do in the world, totally regardless whether its results fall upon the heads of the tyrants or the victims.

Etienne Lantier serves merely as a peg on which to hang the framework of the story, which leaves him prematurely aged and broken down by a long confinement underground in the ruined mine, the result of an accident caused by the remorseless and senseless mischief of his nihilist friend.

Claude Lantier, the younger brother, is an artist with a burning love of art, and an intense devotion to his chosen vocation. "L'Œuvre" shews us the inside of Parisian art studios, and the Bohemian and poverty-stricken life led by the students. Claude is one of the chief malcontents who revolt against the Philistinism and conventionality of the *bourgeois*, and who will paint for art's sake and not to please the public. His comrades secede or succumb one by one, but he continues the struggle to the last, aided by a devoted wife, and sinks gradually lower and lower into poverty, misery, and obscurity; while men with not half his talents succeed by pandering to the taste of the Academicians and the Salons. His poor wife implores him to abandon the art that has ruined them, and the miserable story ends by his hanging himself in his studio before the unfinished picture which had been at once the hope and the despair of his life.

There remain the children and grand-children of the girl Ursule Macquart, married to a *negociant* of Marseilles, named Mouret. Her youngest son Silvére was shot as a revolutionist in the *coup d'état*, and her daughter Helène's adventures form the theme of one of the series entitled "Un Page d'Amour," a simple story, the interest of which turns chiefly on the illness and death from consumption of Helène's daughter Jeanne. Ursule's elder son, François Mouret, succeeds his father in business at Marseilles and marries Marthe Rougon, his half-cousin, daughter of old Pierre and Felicie. They have three children, Octave, Serge, and a half-witted girl called Desireé, who are still in the school-room when François retires from business and settles near his father-in-law at Plassans; where they live peacefully and happily

until the angel of discord appears in the shape of the Abbé Faujas, who is sent from Paris by Eugène Rougon to effect "the Conquest of Plassans," as the volume is called, which narrates the history of the Mouret family.

The Abbé is a secret emissary of the Imperial Cabinet, and his mission is to win over the Legitimists, who are strong in Plassans, to the Emperor's cause. He lodges in the Mouret's house where he obtains great influence over Marthe, and this causes dissension in the family and a rupture in the hitherto happy family. François Mouret goes out of his mind and murders the Abbé, and the book ends with a terrible tragedy where Zola, as usually happens when he attempts the sensational, has a narrow escape of the ridiculous.

"La Faute de L' Abbé Mouret" is the history of Serge Mouret, now Curé of a country parish, with his half-witted sister Desirée keeping house for him. Desirée, little removed from an animal herself, finds all her pleasure in the society of animals, and is the intimate friend as well as the mistress of all the four-footed and feathered inhabitants of her farm-yard. The story is the story of the conflict of Serge's human nature with his priest-nature; the former, in spite of his fervent faith, sometimes getting the better of the latter, especially when aided by the charms of the beautiful Albine. In this love-tale, however, Zola becomes romantic, and consequently unnatural even to absurdity. There is much dramatic power in the enigmatical dream of the bewildered Abbé, of the tremendous conflict between the Church and the powers of nature. He stands at the altar within the sacred edifice, while the walls are rocking with the fury of the tempest, and the lightning is flashing among the falling pinnacles; rain, hail, and wind are all aiding in the work of destruction: and trees are growing up in the aisles and forcing their strong branches through the walls and the roofs: the clinging ivy is tearing down the buttresses and pillars, and the burdocks are forcing up the flag-stones: the beasts are all joining in the sacrilegious work, monkeys stripping off the tiles, and swine rooting up the foundations: and the Church crumbles visibly away under the assaults of nature, while the wasted breath of the priest ascends in fruitless supplications to heaven: until, as the bare altar, left standing alone, is riven by the earthquake, he exclaims in despair "the Philosophers were right: there is no God!"

Octave Mouret, the elder brother of the Abbé, follows his father's trade of a linendraper, at first in Marseilles and afterwards in Paris: his adventures in the latter city being the theme of two volumes of the series. The first of them "Pot-bouillé" is the history of a house in Paris and its many

inmates, in which Octave is one of the lodgers, being employed as an assistant in the draper's shop which occupies the first floor. His story is interwoven with that of all the inhabitants of the different stories of the house, and a chorus is supplied to the drama of their life by the conversation of the servant-maids who congregate daily at the windows which surround the back-yard to discuss the sayings and doings of their masters and mistresses. If these sayings and doings be faithfully represented, as they profess to be, then the pot, indeed, must be very near boiling over, and the social life of the great middle class of the great French nation must be rotten to the core. The men, the most trivial details of whose daily life M. Zola photographs, are without courage or honour: the women are without truth or virtue. The love of self and the greed of gain are the two most powerful motives of their lives. The story ends in Octave Mouret, after being the lover of one of his shop mistresses, marrying another, a widow, for her money, and becoming a master draper himself.

The second book of which he is the subject is called "*Au Bonheur des Dames*," the name of the monstrous drapery establishment which he has developed with the aid of the money of his now deceased wife: the theme of the book is the development of "*le grand commerce*" by the aid of capital; the huge modern shops which swallow up all the profits of the small ones and make their existence impossible. Zola is like the painter Frith, never so happy or so successful as with a crowded canvas; and he revels in the description of Octave Mauret's ever swelling emporium and its contents. One of his shop girls, Denise, is the heroine of the book: a simple, good and sweet girl, of whom the rake Octave becomes gradually enamoured, and whom he eventually marries. Octave, though a rake, was not a bad fellow at heart, and we hope that he made Denise as happy as she deserved to be. "*Au Bonheur des Dames*" is one of the best of Zola's books and one of the least objectionable on the score of indecency. Whether we shall meet Octave and his wife Denise again there is no saying, for the series may be continued to the lives of their children, if they have any.

In reviewing these works we have grouped them by families, but they were written and issued by the author in a hap-hazard way, without any regard to the sequence of time or age. Thus the story of Serge Mouret was published before "*L'Assommoir*" which contained the story of Gervaise Macquard: to that naturally succeeded the story of her daughter "*Nana*:" then came the two volumes of which Octave Mouret is the hero: then "*La Joie de Vivre*," the story of Pauline Quenu, Lisa Macquard's daughter: then the volumes containing the stories of

Gervaise's two sons: and so on. And each of the books of the series is so constructed, that it may be read by itself without reference to the rest of the series. In the same way. Thackeray and Trollope were wont to keep the same set of people running through all their novels, so that the reader could treat them as connected or disconnected works at pleasure.

Both the objects which Zola proposed to himself in thus issuing this series of novels appear to have been lost sight of in the separate interest of each story as the work proceeded. The thread of connection has grown slenderer and slenderer as the series has been protracted, nor does there appear any attempt to definitely fix the moral and physical influence of inherited qualities in the various characters. The political moral which was sought to be enforced so sedulously in the earlier volumes of the series, has been conspicuously absent from the latter ones: the Empire is so thoroughly dead and buried now, that the author probably thinks there is no use in casting any more dirt upon it. But in the later books of the series a new political idea has cropped up: the idea of the organization of labour in opposition to capital, the revolt of the *ouvrier* class against the *bourgeoisie*: the presage of a fresh French Revolution, directed this time not against the aristocracy (for there is none,) but against the upper class which has succeeded to its place. If Zola's novels are what they profess to be, and what many admit them to be, photographs of Modern French Society, then a French Revolution is as much needed to-day as it was a hundred years ago. The *bourgeois* who have succeeded to the old *noblesse* have all the vices of their predecessors without any of their spirit. There are some who maintain that the failure of honour and public spirit in France is due to the absence of an aristocracy:

"Let arts and commerce, laws and learning die,  
But leave us still our old nobility!"

Perhaps those qualities can best be fostered by the example of a worthy aristocracy; but the French nobility had already lost those attributes of nobility before their inglorious fall. "If the salt hath lose its savour, wherewith shall it be salted?" But the state of society portrayed in the novels of Zola inclines us to believe, that the moral corruptions which caused the ruin of the aristocracy, was not confined to them, but had poisoned the life of the nation already when they were cut off; and the disease was reproduced in their destroyers and successors. The stagnation of the national growth, the failure of the French arms, are effects of this moral disease which is sapping the vigour of the nation. The popularity of M. Zola's books is only a symptom of the fatal and pervading social plague which he attempts to diagnose.



## ART. IX.—INDIAN CODIFICATION.

*The Anglo-Indian Codes.* Edited by Whitley Stokes, D. C. L., late Law Member of the Council of the Governor-General of India. Vol. II. Adjective Law. Oxford: at the Clarendon Press, 1888.

THE appearance of the second volume of Mr. Whitley Stokes' "Anglo-Indian Codes" seems to present a suitable opportunity for saying a few words regarding the past, present, and future of Indian codification.

The first Law Commission was appointed in 1834 under section 53 of the Charter Act of 1833 (3 and 4 Will. IV. c. 85). It consisted of the Legislative Councillor (the first was Lord Macaulay), an English Barrister, and three of the Company's Civil Servants, one from each Presidency. Macaulay's draft of the Penal Code was actually published in 1836, but it did not become law till 1860. This Commission published voluminous reports, but effected nothing in the way of codification or consolidation of the laws or customs of the country.

The next link in the chain of the past of Indian codification is found in Sec. 28 of the Charter Act of 1853 (16 and 17 Vic. c. 95), which authorized the appointment of Commissioners in England to examine and report on the reforms proposed by the Indian Law Commissioners appointed under the Act of 1833. The preamble of this section is worth reproducing *in extenso* :—

"And whereas by the said Act of the third and fourth years of King William the Fourth, it was provided, that Commissioners to be appointed thereunder, and to be styled the Indian Law Commissioners, should inquire into the jurisdiction, powers, and rules of the existing Courts of Justice and Police establishments in the said territories, and all existing forms of judicial procedure, and into the nature and operations of all laws, whether civil or criminal, written or customary, prevailing and in force in any part of the said territories, and should from time to time make reports, in which they should fully set forth the result of their inquiries, and should from time to time suggest such alterations as might, in their opinion, be beneficially made in the said Courts of Justice and Police establishments, forms of judicial procedure and laws, due regard being had to the distinctions of castes, difference of religion, and the manners and opinions prevailing among different races and in different parts of the said territories : And whereas the Indian Law Commissioners from time to time appointed under the said Act have, in a series of reports, recommended extensive alterations in the judicial establishments, judicial procedure, and laws established and set forth in India, and have set forth in detail

the provisions which they have proposed to be established by law for giving effect to certain of their recommendations ; and such reports have been transmitted from time to time to the said Court of Directors ; but on the greater part of such reports and recommendations no final decision has been had :

It shall be lawful for Her Majesty to appoint, &c."

A Commission was accordingly appointed in 1853, consisting of Sir John Romilly, Sir John Jervis, Sir Edward Ryan, Charles Hay Cameron, John McPherson Macleod, John Abraham Francis Hawkins, Thomas Flower Ellis, and Robert Lowe. These Commissioners submitted reports in 1854 and 1856, and they recommended, *inter alia*, the amalgamation of the Queen's and Company's Courts.

The attention of the Commissioners was prominently drawn to the necessity for amalgamating the Supreme and Sudder Courts in each Presidency. They were informed that it was obviously most desirable that a simple system of pleading and practice, uniform as far as possible throughout the whole jurisdiction, should be adopted, and one which was also capable of being applied to the administration of justice in the interior Courts of India. The embarrassment would thus be avoided which a diversity of procedure threw in the way of an appellate jurisdiction ; and the proceedings in the new Court would be a pattern and guide to the inferior tribunals in the Mofussil. It was intended that the procedure in the highest Court should be exactly the same in all respects as that of the Courts of first instance. That this object has not been entirely effected, is manifest from the book which Mr. Belchambers has published regarding the rules of practice and procedure now in force on the Original side of the High Court.

The work done by the Commissioner of 1853 may be summarized as follows :—

1. They submitted a plan for the amalgamation of the Supreme and Sudder Courts :
2. They framed simple and uniform Codes of Civil and Criminal Procedure :
3. They submitted elaborate proposals for supplying the wants of India as regards substantive Civil law.

The immediate, or rather the proximate, results of their labours were, that the Courts were remodelled in 1862 in accordance with their recommendations, and that the Codes of Civil and Criminal Procedure were, with some alterations, passed into law in 1859 and 1861 respectively.

The next Commission was appointed in 1861, and consisted of Lord Romilly, Sir William Erle, Lord Chief Justice of the Court of Common Pleas, Sir Edward Ryan, Mr. Lowe, Mr.

Justice Willes, and Mr. Macleod. Subsequently Lord Chief Justice Erle and Mr. Justice Willes retired from the Commission, and Mr. James (afterwards Lord Justice James) and Mr. John Henderson were appointed Commissioners in their stead. In a series of reports submitted from 1863 to 1870, this Commission laid the foundation of a systematic jurisprudence for India. Their work may be summed up as follows :—

1. They framed a law of succession and inheritance applicable to various classes of persons not professing the Hindu or the Mahammedan religion :
2. They submitted rules of law on contracts in general, on the sale of moveable property, indemnity and guarantee, bailments, agency and partnership :
3. They submitted rules of law on the subject of promissory notes, bills of exchange and cheques :
4. They submitted rules of law on the subject of evidence :
5. They submitted a body of law designed to bring the rules which regulate the transmission of property between living persons into harmony with the rules affecting its devolution upon death :
6. They revised the Code of Criminal Procedure.

The Commissioners appear to have been disappointed at the slowness of the Government of India in passing their drafts into law, and they consequently tendered their resignation (1870). The following Acts constitute the ultimate result of their labours ; the Indian Succession Act of 1865, the Contract Act, the Evidence Act, the Code of Criminal Procedure of 1872, and the Negotiable Instruments Act of 1881.

Sec. 28 of the Charter Act of 1853 (16 and 17 Vic., c. 95) remained unrepealed by the Indian Councils' Act of 1861, or by any other enactment ; and in 1875, the Secretary of State for India, Lord Salisbury, pointed out to the Government of India the expediency of continuing and completing the work of codification, and suggested that the preliminary work of preparing, for the consideration of the Legislative Council, the remaining branches of the Indian Code, should be entrusted to a small body of eminent draftsmen working in England. The Government of India were averse to this proposal on the ground that a body sitting in England would have a tendency to draw the initiative out of India into England, and that though their measures might possess legal symmetry, they would be framed without regard to the order in which they were wanted, or to the peculiar conditions and circumstances of the country. It is no doubt

essential that draftsmen of laws for India should have an intimate acquaintance with the existing Indian law ; otherwise, their work will be full of inconsistencies, incongruities, and mistakes. The Government of India also pointed out that codification cannot be accomplished without change ; that the people of India do not readily accept change ; and that any large new body of law must be slowly and cautiously introduced. The judiciary also have to be considered : their powers of digestion and assimilation are limited. The task of learning the large body of new law added to the statute book in 1872 was felt very severely by Judges all over the country, and was even made the subject of complaint. After the severe labours of 1872, the Legislature seems to have been glad to to rest on its oars and get a breathing-space. Taking codification to be the expression in authoritative writings of law previously to be gathered from traditions and records of a much more flexible and less authoritative character, there was between 1872 and 1877 but little codification, with the exception, perhaps, of the High Courts Criminal Procedure Act, (X of 1875) and the Presidency Magistrates Act (IV of 1877). Nevertheless, a good deal of attention was paid, during this period, to the consolidation of existing, and the repeal of obsolete laws (Acts XIV, XV, XVI of 1876).

The Secretary of State, however, insisted on the importance of continuing, in a steady and systematic manner, the work of codification, and pointed out that the necessity had become especially urgent, as the amalgamation of the Presidency and Mofussil Courts had taken place before the formation of the Civil Code which they were intended to administer, and the general direction to follow the dictates of equity, which was alone given to them for their guidance, was apt to be interpreted by many of the Judges of appeal in the light of English authorities with which they were familiar, but which were necessarily unknown to the litigant parties, and even to the Judges of first instance. In this way, many rules utterly ill-suited to oriental habits and institutions, and which would never recommend themselves for adoption in the course of systematic law-making, were indirectly finding their way into India by means of that informal legislation which is gradually effected by judicial decisions ; and it was manifest that the only way of checking this process of borrowing English rules from recognized English authorities, was, to substitute for those rules a system of codified law, adjusted to the best native customs and to the ascertained interests of the country. The Secretary of State, moreover, remarked that only two chapters of the Indian Civil Code had hitherto been enacted, namely, those treating of succession and of contract.

The Government of India replied that they were keenly alive to the importance of reducing to a clear, compact, and scientific form the still uncoded branches of the substantive Civil law. It would save labour and thus facilitate the despatch of business and cheapen the cost of litigation: it would tend to keep untrained Judges from error: it would settle disputed questions on which the Indian superior Courts were unable to agree: it would preclude the introduction of technicalities and doctrines unsuited to India: it would possibly enable the Government to make some urgently needed social reforms without the risk of exciting popular opposition: and it would assuredly diffuse among the people of India a more accurate knowledge of their rights and duties than they would ever attain, if their law were left in its present state, that is to say, partially codified, but the bulk ascertainable only from English text-books written solely with reference to the system of English law, and from a crowd of decisions, often obscure and sometimes contradictory, to be found in the English and Indian Law Reports. In fact, the Government of India did not for a moment contest the expediency of completing the codification of the substantive law, but merely insisted on the work being done in India and not in England.

It will be useful and interesting to note as succinctly as possible what were at this time (1877) the exact intentions of the Government of India as regards codification. Foremost in importance was the completion of the law of contract. Act IX of 1872 had dealt only with contract in general, sale of goods, indemnity and guarantee, bailment, agency and partnership; the following subjects still remained uncoded:—

- (a). Sale of immoveable property, mortgages, exchanges, leases;
- (b). Insurance (marine, fire and life);
- (c). Carriers (marine and inland), except so far as they fall within the sections on bailment in Act IX of 1872;
- (d). Negotiable instruments; and
- (e). Bottomry, respondentia, and the other liens on moveables, except those of unpaid vendors, bailees, pawnees and agents

Taking other uncoded subjects in the order of their importance, it was proposed first to pass into law the Bills relating to transfer of property, negotiable instruments, and insurance. The Negotiable Instruments Act was to be an embodiment of the actual law merchant of the country, and not to introduce any English innovations, which would ride roughshod over the native customs relating to *hundis*.\*

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\* A *hundi* is a Bill of Exchange.

The laws of persons, personal rights, and personal relations were considered to stand next in importance. The subjects of minors and lunatics had been dealt with: but, generally speaking, the law of personal relations had not been touched; that is, the law dealing with the relations of husband and wife, parent and child, guardian and ward, master and apprentice, and master and servant. The laws as to the solemnization of marriage and as to divorce had been codified *quoad* Christians and persons (such as members of the Brahmo Samáj) not professing the Christian, Jewish, Hindoo, Muhammadan, Parsi, Buddhist, Sikh or Jain religion. The law of guardian and ward was codified by Act XIII of 1874 for Europeans, their children and grand-children; but this Act was in force only in the Panjáb, Oudh, the Central Provinces, Ajmir, Coorg, Assam and British Burma. The law of master and apprentice had been dealt with by Act XIX of 1850 and Act I. of 1857. It was proposed to extend Act XIII of 1874 to the whole of British India, and possibly to the classes to which the Succession Act applies; and also to take up the subjects of master and servant and of parent and child (which would include rules as to the custody of children). On the former subject Mr. Whitley Stokes, then Legal Member, had already prepared a Bill.

Personal relations having been disposed of, laws were to be passed regarding alluvion and diluvion, easements and boundaries. The subject of boundaries in their civil aspect was untouched, save by some local laws dealing with boundary disputes, and the erection and repair of boundary marks; so was the law of servitudes (or easements), save as regards the acquisition of a prescriptive title.\* As to alluvion the only Regulation (XI of 1825) on the subject was not in force throughout India, and was incomplete, obscure, and encrusted with conflicting decisions of the late Sudder Courts, the High Courts, and the Judicial Committee of the Privy Council. The law of property, already touched by the Succession Act and Contract Act would be, to a large extent, covered by dealing with the uncoded portions (enumerated above) of the Law of Contract. Certain matters not so covered, such as the property of the State, and the ownership of wild animals, were not considered to be pressing. The subjects of shipping, corporate property, patents, copyright and trade-marks had already been treated; while settlements and powers were included in the Transfer of Property Bill. Trusts were to be abandoned for the present.

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\* Act IX of 1871, ss. 27, 28; now Act XV, 1877.

With the passing of the above measures the rights of the people would be rendered fairly certain, and it was not till then, that the subject of torts or actionable wrongs was to be attacked and disposed of. The Civil Code would then be almost complete; there would only remain the subjects of carriers (marine and inland), trusts, gifts *inter vivos*, bottomry, and the other liens on moveables not treated by the Contract Act, and accession to moveables, so far as the subject was not disposed of by sections 155-157 of the same Act.

Nothing would then remain but scientific arrangement, and the preparation of a chapter containing rules of interpretation. Such a chapter was considered to be of the utmost importance as abolishing the absurd, illogical, and pernicious distinctions between the construction of penal statutes, remedial statutes, and statutes imposing taxation—distinctions which had been ruthlessly imported into India by judges more familiar with the English than the Indian law, and fonder of airing their knowledge of the English Law Reports than impressed with the desirability or necessity of giving effect to the intentions of the Indian Legislature. The Government of India were deliberately and emphatically of opinion that the work of codification should be carried out in India, and not in England; that an Indian Law Commission could do the work required, but would be too expensive; and that it would suffice to attach a skilled Parliamentary draftsman to the Legislative Department.

At this point we may suspend our sketch for a moment and consider, why it is essential that laws for India *must* be framed in India and by persons familiar with the Indian law. India is not a newly discovered island, or a fresh continent: it is not a *corpus vile* for *experimentum juridicum*: it is not a blank sheet, a *tabula rasa*, on which either theorists or English lawyers may inscribe fancy codes or duplicates of English text-books. Whatever may have been the case in England or on the continent, it has never been seriously proposed in this country to plunge into such anti-historical codification as was proposed by Bentham. Insurance and maritime lien are perhaps the only branches of the law on which India has not developed rules or adapted them to local circumstances. One of the main principles of Indian codification is, to make as little change as possible in the body of existing law, whether that law be declared by statute, or by judicial decisions, or by well-ascertained usage. It follows that the Indian draftsman must not only know what to say, but also what to abstain from saying; and this knowledge can only be obtained by long study and residence in India. To draft even the simplest Act, the draftsman must have at his finger's ends the whole body of existing law on the same subject. The Indian draftsman

should know the statute law, the case-law, native law and local usage as well as the English statutes and reports are known to Parliamentary draftsman. Indian law is a very vast field, and many a Judge leaves the country without having mastered one-tenth of it, and without even having seen many portions of it. The sources of Indian law are three-fold :—

### *I.—Statutory Law.*

Under this head we have the statutes relating to India, and especially those dealing with constitutional law ; the Acts of the Governor-General in Council : the Acts of four Local Councils ; the unrepealed Bengal, Madras and Bombay Regulations ; and lastly, the Regulations made under the Statute 33 Victoria, chapter 3.\*

### *II.—Case-law.*

The Law Reports fill more than 300 volumes, so that the number of decisions must almost, if not quite, equal the 30,000 *responsa prudentum* which Tribonian and his colleagues compiled for the Emperor Justinian.

### *III.—Native Law and Local Usages.*

Under this head there are text-books and translations, and that too little-known quantity, the common law of the country, as deducible from native life, manners, and customs. Intelligent natives and civilians of wide Mofussil experience could name not a few rights, customs, and easements that have been unrecognized or not sufficiently recognized by the Courts. The most recent declaration of customary law that we can call to mind is that of the Allahabad High Court regarding the easement of privacy. Bills before the Legislative Council are often shaped and modified in accordance with the mature experience and intimate local knowledge to be found in the reports of local Governments and their District officers ; and in this way a good deal of well-ascertained custom is saved and preserved.

Having regard to the above facts, the unwisdom of entrusting to a few English lawyers, however eminent, sitting in London, the work of framing laws for India, needs no further demonstration.

To return from our digression : a competent Parliamentary draftsman was not available, and the Indian Government were compelled to recommend the appointment of a Commission to work in India under the instructions of the Governor-General in Council. Of the contemplated legislation,\* two Bills (those dealing with the Transfer of Property and Negotiable Instruments)

\* Possibly these Regulations might not be found in the libraries of High Court Judges or Secretaries to Government ; they are certainly not to be found in the Mofussil.



had been revised by Select Committees of the Legislative Council; while four other Bills (Easements, Alluvion, Master and Servant, and Trusts) had been drawn by the Legal Member, Mr. Whitley Stokes. It was, therefore considered that the Commission might finish their work within five years. The Secretary of State approved of the proposal of the Government of India; and in February 1879, a Commission was appointed, consisting of Mr. Justice Turner of the Allahabad High Court, Mr. Justice West of the Bombay High Court, and Mr. Stokes as President. Their report was submitted before the end of the same year.

As might have been expected from the constitution of the Commission, they were in favour of continued and sustained codification. About that time legislation of any sort was somewhat in disfavour, while scientific legislation was regarded with a sort of abhorrence. The Commission, therefore, thought it worth their while to examine at length and refute the objections that had been brought forward. The arguments used are much the same as those which have established themselves on the continent, though experts differ very considerably as to how far codification should go, and at what stage of a nation's progress particular branches of the law should be codified. By some it is said that the true purpose of a code is to further the moral and material progress of a people by fostering a general harmony of thought and action. We doubt whether this is the true function of a code, though it may possibly have such a result. But, however that may be, society cannot, as some are rash enough to assert, provide for its jural needs without any intervention of the legislature. Active legislation is essential, not only to the progress of administration, but to the political health of a growing society; it meets needs which cannot otherwise be satisfied, and the more systematic it is, provided the system itself is a good one, the more beneficial it will be in its operation and influence.

What made codification an urgent necessity in India was the ruthless application of an alien law, the only law with which the Judges were acquainted. English law found its way into every corner of the country; until mofussil Munsifs, \* speaking no language but their own vernacular, were told at last by a Chief Justice † through their superiors, that they were bound to dispose of the litigation of Marathas according to the principles of English law which the Courts at Westminster would bring to bear on the same cases. This was the earlier stage of the mischief. A later stage was that some native

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\* A Munsif is a Civil Court of first instance.

† 2 Bom. H. C. R. 38, per Couch, C. J.

Judges, cut off by an elaborate education from all sympathy with the mass of the people, not knowing their own legal literature, and thoroughly conscious of the tests by which their abilities would be appraised, resorted for guidance to English text-books and the judgments of superior Courts steeped in English law. The application of English law was, from some points, not to be regretted any more than the general adoption of Roman law in Europe in the Middle Ages; but the Roman law was codified, and therefore more easily ascertainable. The mischief in India was, that the lower Courts could not properly ascertain, and did not thoroughly understand the English law, scattered as it is in numerous reports and text-books. In the Appellate Court an improved reading was perhaps substituted for a defective one, and so at every step, the chain of precedent grew stronger. A system having once been firmly established, no individual Judge, however enlightened and sensible, could set bounds to its predominance. Even the terms of the English Real Property law, drawn straight from the feudal system, have become, with all their misleading connotations, a part of the common vocabulary of the Courts. The cry against over-legislation is often but the outcome of ignorance and mere prejudice, and that cry was at no time louder than when Mr. Stokes was Legal Member. Possibly the objections urged against one or two Bills were reasonable; but the indiscriminating condemnation of all the measures then on the legislative anvil was due to prejudice. An example is the Easements Act, which is clear, concise, and intelligible to any Munsif; before it was passed, there was perhaps no branch of the law on which more uncertainty and diversity of decision prevailed. Munsifs used to lose themselves in the labyrinths of treatises by Gale and Goddard, instead of having a few clear and comprehensive sections to refer to. The Master and Servants Act was perhaps open to some of the objections urged against it, and its provisions would certainly have been abused by low-class Europeans.

Those who condemn codification, or as they would term it, over-legislation, are under the erroneous impression that, when the legislative mill is not working, legislation is not really going on. But it cannot be too clearly borne in mind that inaction on the part of the legislature *retards but does not arrest* legislation. Points not provided for by the statute-law must be decided, and judicial legislation by case-law is always going on, the amount of it being in an inverse ratio to the amount of statutory legislation. Now legislation by the legislature must, *ex necessitate rei*, be superior to legislation by a Judge. The Judge is confined to the four corners of a record; the legislature has at its disposal the whole experience of the

administration. The Judge is dependent for his material on an interested suitor, who wishes to obtain a particular decision : the legislature publishes its proposals, and obtains criticisms from competent advisers and experts in every part of the empire.

The propositions of a code should be broad, simple, and readily intelligible\* by a man of ordinary understanding. With regard to this, the opponents of scientific legislation for India often remind us of the extremely different social conditions and stages of progress attained in different parts of the country. A good answer to this objection is furnished by the following extract from the Report of the Commission :—

“ That very great differences exist is undoubted, but it is no way conclusive of the question of systematic, as opposed to casual law-making. Looking at the matter by the light of history, we have to admit that the contrasts in civilization amongst the several provinces of the Roman Empire were not less marked than those to be observed in British India. Yet this was not allowed to prevent the growth and application of a uniform system of legal principles. The *Pætorian law*, in fact, gained largely by its necessary adaptation to the needs of citizens and foreigners alike, and its consequent rejection of all that was specially local and peculiar. Principles of universal application, according to the standard then recognized, had to be sought out, because it was felt that what was a good reason for a rule to a Roman was sometimes no reason at all to a foreigner, or even to a provincial. It was in this way that the Civil law gained that character of generality which has given it such an ascendancy on the Continent of Europe. In India analogous conditions must lead to not wholly unlike results. The law to be introduced, or framed out of existing local materials, has always to be tried by the test of its suitability to the varying circumstances of the different provinces. What is insular or cramped either in thought or in expression is thus almost certainly eliminated. The central ideas of the English law are, in such works as the Penal Code and Contract Act, cleared from the remnants of a lower stage of organization with which, in the English books and the English Courts, they are still encumbered, and presented in a simplicity and generality of expression which has re-acted very perceptibly on the ideas of lawyers in England. The more searching analysis forced by his situation on the Indian lawyer and legislator may thus in the end prove highly beneficial both to the science of law, and its its practical application.”

Finally, laws must be certain : this is an essential element in good government. Some have even gone so far as to say that “ it matters little what the law is, so that it be settled.” Now, what practical chance is there of either uniformity or certainty, if the Legislature does not step in from time to time to declare what the law is ? The facts are these : There are one Supreme and four Local Legislatures. There are four High Courts, one Chief Court, and several Judicial Commissioners

\* “ *Les lois ne doivent point être subtiles : elles sont faites pour des gens de médiocre entendement.*”—Montesq. *Esp. des Loix*. xxix. 16.

with the powers of High Courts; and none of these tribunals are bound to accept as binding the rulings of any other! Only one tribunal, the Judicial Committee of the Privy Council, can compel in one direction the decisions of all Indian Courts of appeal: and that tribunal cannot be resorted to except in cases of high pecuniary value, and then only by exceptionally wealthy suitors. It is obviously desirable that the superior Courts should be provided with uniform bodies of rules dealing with the chief relations of social life, so as to obviate inconsistent and contradictory decisions, and to prevent the growth of irreconcilable systems in different parts of the country. Coming down to the Courts of first appeal, it is found that many of them display remarkable acumen and ability, but that, generally speaking, their legal training is defective. The bulk of the work, however, is done by the Courts of first instance. They are often situated in remote and solitary places, without the aid of skilled assistance, and without access to good law libraries. Mofussil pleaders are generally too poor to provide themselves with good text-books or law reports, and the judges can count on little assistance on any subject, which is outside the range of their own daily experience. Owing to the unskillfulness and want of knowledge with which these cases have been handled in the first instance, suitors are often compelled, at ruinous expense, to appeal from Court to Court. No improvement can be expected until the Mofussil bar, that is, the pleaders practising in the Courts of Munsifs, are better educated in law; and the best way to supply the deficiency is to extend the codified law. It will be seen, then, that the happiness of a people is intimately bound up with, and dependent on, the possession of good, certain, and readily intelligible laws. A well-framed code will not only reduce the necessary bulk of law libraries, but will focus the wisdom and acumen of many learned expositors upon identical points of construction and detailed development. In such a concourse of intelligence the better interpretation, the sounder principle, must prevail; and thus the Lower Courts will be trained, not only to a right understanding of particular enactments, but to a rational and effective method of dealing with the whole range of problems set before them. Lower Canada is one of the many countries which have recognized the inestimable advantages of codification; and there, as in India, a heterogeneous population has rendered it necessary to build on broad and liberal general principles. The following is an extract from the introduction to its Civil Code:—

Prospectively, the code promises uniformity of jurisdiction, which contributes to diminish litigation, and add to the security and stability of our civil rights.

It offers great additional means of legal education, from which may be expected a higher standard of professional excellence.

It will ensure among the individual members of society a more intimate acquaintance with their civil rights and obligations, tending to increase and facilitate business relations, and to promote the natural welfare of the community. Moreover, as a barrier against the continual inroads of fragmentary legislation, it is an earnest of stability in the law itself.

The great divisions of a complete future code will comprise the following : (1) Public and political law : (2) Absolute rights and duties : (3) Obligations : (4) Property : (5) Personal law : (6) Family law : and (7) Successions. In India the gaps are the widest under heads (2) and (4). The Commission of 1879 were of opinion that the Contract Act, with the Acts relating to negotiable instruments, the transfer of property and trusts, would settle the main principles of free bilateral transactions and fiduciary relations. It would be impossible to reduce to uniformity the law as to the estates and interests to which the State will give effect in immoveables ; but the subject of alluvion was constantly before the Courts and must be dealt with, and it was also desirable to define the rights and obligations of proprietorship, by a clear and reasonable law of easements. On the frontier line of contract and family law came the Master and Servants Bill, which should carefully avoid any unnecessary aggression on the delicate domain of purely domestic relations. After the above Acts had been passed, it would be advisable to deal with the law of wrongs, or of absolute private duties and rights ; this law, standing between the Criminal Law and the laws of property and obligations, was interwoven with both, and was also connected with the law of persons and of the family, and even with the law of succession.

There has been much diversity of opinion regarding the necessity for a Code of Torts. An elaborate code was framed about the year 1884 by that erudite lawyer, Mr. Frederick Pollock ; but the weight of opinion was against passing it into law. The Commission, of which Mr. Stokes was President, maintained that the positive rules as to rights, which had already been enacted, required as a complement, a rational law of wrongs. Within firm and unmistakeable outlines, ample room was to be afforded for the play of individual energy, for the growth of beneficial influences springing from sources within the community itself, and for the plastic force of judges and administrators at once in thorough sympathy with the Legislature, and thoroughly versed in the habits, practices, and tendencies of the native community. It was hoped that, with the Penal Code and the Contract Law, a clearly drawn code of absolute Civil duties, well adapted to the character

of the people, might serve as the solid core of a greatly improved scheme of popular ethics. The argument that by knowing their absolute Civil rights people would, in many instances, be led into litigation for the sake of asserting them was, in the opinion of the Commission, hardly worth serious discussion. Its natural conclusion was, that all Civil laws were an evil ; it might be all penal laws too, since, if no one knew that he could obtain redress, no one would complain of any injury. Laws were made and administered in the interest of the general well-being ; no rights should be given by law, except those which it was important to maintain ; and when the law conformed to this principle, the man might be regarded as a friend to society who, in vindication of his private right, enforced observance of a rule universally beneficial.

Our own opinion on the subject coincides with that which presumably the Government of India arrived at, when they decided not to proceed with Mr. Pollock's Bill. No doubt, from a lawyer's point of view, a code on the subject of tortious acts or wrongs would constitute a valuable addition to a body of written law ; but it is very doubtful whether it would benefit Indian society. It would probably be more effectual in suggesting kinds of litigation now very rare, if not wholly unknown in India, than in removing difficulties actually felt in practice. On many subjects rights have not become sufficiently settled to afford a basis for a codified law of wrongs. According to Sir James Stephen, the object of codification was to provide a body of law for the Government of the country so expressed, that it might be readily understood and administered both by English and Native Government servants without extrinsic help from English law libraries. He was therefore in favour of a law of torts. That great jurist, the late Sir Henry Maine, was also opposed to the postponement of such a law. The two-fold dangers of comprehensive legislation have been ably pointed out by Sir James Stephen : on the one hand, unsuspected and unintended changes may be produced by introducing European ideas into Native society : on the other, we may stereotype those Native ideas and institutions, which must in the course of time be remodelled by the influence of European ideas and habits ; either revolutionary changes may be introduced, or insurmountable obstacles may be placed in the way of those very changes, which are the natural and beneficial results of the establishment of the British power. These dangers would not be absent in the codification of a law of wrongs. But Sir Henry Maine was of opinion that their magnitude was much exaggerated. He thought the case against codification was founded on an erroneous assumption, namely, that India

was full of indigenous legal or customary rules, which sufficed for the solution of all legal questions; whereas, as a matter of fact, the country was, before the British Government began to legislate, singularly empty of law. He considered it very possible, and even certain, that there were no indigenous rules in India to guide the Courts of justice when questions of civil wrong were brought before them. If the legislature did not legislate, the Courts of justice would have to do so; for legislation was a process which perpetually went on through some organ or another wherever there was a civilized Government, and which could not be stopped. But legislation by Indian Judges had all the drawbacks of judicial legislation elsewhere, *and a great many more*. As in other countries, it was legislation by a legislature which, from the nature of the case, was debarred from steadily keeping in view the standard of general expediency. As in other countries, it was haphazard, inordinately dilatory, and inordinately expensive, the cost of it falling almost exclusively on the litigants. But in India judicial legislation was, besides, in the long run, legislation by foreigners, who were under the paralysing thralldom of precedents and analogies belonging to a foreign law, developed thousands of miles away, under a different climate, diverse conditions, and for a different and far superior civilization. For these reasons Sir Henry Maine was of opinion that the law of wrongs might with advantage be codified.

The science of jurisprudence is under lasting obligations to the writings of Sir Henry Maine and Sir James Stephen; and every student of the science cannot but regard those great names with gratitude and veneration. If the writer differs from them regarding the necessity for a law of torts in India, he humbly urges as an excuse for his presumption that, having been longer in India, and having resided in various parts of the interior, and not merely in Calcutta and Simla, he has had greater opportunities of becoming acquainted with the country and the people, and has thereby been enabled to collect more data for forming an opinion as to the probable effects of a code of wrongs on their daily life and relations. It seems to us that it is important to codify subjects about which frequent law suits arise, *e. g.*, the subject of Hindu family property: such codification prevents money from being wasted on uncertain litigation, and thereby tends to add to the well-being and wealth of the people. Such codification may lessen the profits of the legal profession; but in this, as in all other matters, the greatest good of the greatest number must be kept in view. On the other hand, it is not important to codify two classes of subjects,

(1.) Subjects about which people do not dispute :

- (2.) Subjects which are dealt with in the existing law, and on which such law works well.

Now there are certain branches of the law of wrongs regarding which the people have no disputes, and do not litigate. The bulk of litigation is concerned with contract, property, and the law of landlord and tenant. Again, there are certain other great branches of the law of wrongs, which are adequately dealt with in the Penal Code. Such are the offences (or wrongs) of assault, criminal force, wrongful restraint, wrongful confinement, malicious prosecution, mischief, insult, and defamation. It has been found that the best-drawn Code of Torts cannot improve on the Penal Code definitions of these wrongs, and a Code of Wrongs is to a great extent a duplicate of the Penal Code. In Germany and France the *action civile* as well as the *action publique* come before the Courts of first instance; and, are not the two in a manner already joined in Indian Criminal Courts? Section 545 of the Code of Criminal Procedure is as follows:—

“Whenever, under any law in force for the time being, a Criminal Court imposes a fine, or confirms in appeal, revision or otherwise, a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

- (a) In defraying expenses properly incurred in the prosecution;
- (b) In compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the Court, recoverable by civil suit.”

Clause (a) will give the wronged party his costs, and clause (b) his damages. At a time when the everlasting cry is for “more Munsifs,” is it not advisable to utilize the Criminal Courts for the decision of matters which they are competent to decide, at the same time giving their decisions more finality? \* The objections which stand in the way are sentimental, and are intimately connected with the fear of the *Faujdar* (the Governor-Magistrate, supported in the background by the bayonets of the British *Fauj*), † and the stigma which attaches, or is supposed to attach, to a criminal conviction. But sentiment yields to time and reason:

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\* In Italy it is the law that there can be no Civil action when it has been declared by a final judgment, that there are no grounds for prosecuting, either because the act imputed does not constitute an offence, or because the accused has been acquitted as not having committed the act. Ital.—C. P. C., 4, 6. In France the acquittal pronounced in a Criminal Court is an obstacle to a civil action, if the Criminal Judge has clearly negatived the fact which is the common basis of either action, and the Civil claim is absolutely irreconcilable with the findings and decision of the Criminal Judge.—Rulings of Court of Cassation, 20th April 1863.

† *Fauj* is the Hindustani word for army: *Faujdar* is literally the leader of an army.



facts cannot be altered by varying names and appellations. A cuts a portion of B's hedge: he is no better and no worse a member of society, 'whether he be prosecuted and fined Rs. 5 for mischief, or sued and made to pay Rs. 5 as damages for the wrong inflicted. The criminal procedure is cheaper, and it may be said that the Government would lose the institution court fee on plaints; but on the other hand, any portion of a criminal fine not paid as compensation goes to Government. Moreover the court fee on complaints might be raised in non-cognizable\* cases. We have no space to pursue this important subject further; but we are decidedly of opinion that a Code of Torts would foster litigation. If a Code of Torts is to be passed, it must be accompanied by some radical alterations in the law of criminal procedure: otherwise, we should find unsuccessful complainants filing plaints for wrongs, and convicted persons suing their prosecutors in the Civil Courts. So far as we are aware, there is nothing in the law, as it now stands, to prevent the occurrence of such extraordinary anomalies. They can hardly be said to occur at present; but a Code of Torts would immediately suggest and bring them into prominent operation. It would be extremely unwise and impolitic to pass any measure, which would suggest and foster litigation. It is said that already the Munsifs cannot get through their work, and the duration of contested cases shows a steady tendency to increase. We believe the causes of this state of things to be certain evils so deep-seated, that probably the creation of additional Courts would only give a temporary relief. This is a subject which demands a separate article, and the writer hopes he may find leisure to discuss it in a future issue of this Review. It is sufficient to indicate the evils here: they are the powerlessness or unwillingness of the Courts of first instance to economize the public time, slowness in recording vernacular depositions, the abuse of cross-examination, the subordination of facts to lengthy discussions on law and evidence, wrangles as to the relevancy or irrelevancy of questions and prolix repetitions of arguments, the excess of the supply of legal practitioners over the legitimate and natural demand, the consequent fostering of litigation by a growing class of not over-respectable go-betweens, touts, "torneys," and clerks, time wasted in getting in unwilling witnesses,†

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\* *i. e.*, cases, in which the Police have no power to arrest without a warrant. Ind. C.P.C. '4 (f).

† There are four processes, namely, summons, warrant, proclamation and attachment of property: and finally, a notice is sometimes issued to the absconding witness, calling on him to shew cause why he should not be made over to the Criminal Court. It takes from four to six months to exhaust this procedure.

the non-production of witnesses from a fear lest the Court may not be able to take up the case on the day fixed, and the payment of pleaders by the day instead of by the job, or in proportion to the value of the suit. To this long list it may be added, that delay is often resorted to simply to harass an enemy, especially if he be a poor man, and the proceedings are often lengthened out and protracted in order to see if, owing to the uncertainty of our technical proceedings, and the extreme length of the ladder of appeal and revision, even a just claim cannot be successfully repudiated. The evils to be dealt with are of such a nature, that work is only increased by appointing an additional Munsif. Say a Munsif can dispose of 1,000 cases in a year: 1,500 are filed annually, and an additional Court is opened to relieve him. Possibly the first year each Court may get only 750 suits, but in a year or two—such is the demand for legal work—each Court gets its 1,000 and then its 1,500 cases. The fact is, there is not enough work for the native bar, and each new Munsifi is but an additional carcass for the vultures to swoop down and batten upon. These evils would be enormously aggravated by the passing of a Code of Civil Wrongs. Such a code would, in the present condition of society and Civil Justice, be an additional vehicle for oppression, and the gratification of spite and enmity; and village Mukters and law-mongers would eagerly scan its sections and illustrations in search of novel modes of harassing an enemy or extorting black-mail.

A Code of Torts being passed, the Law of Property was to be dealt with; and finally, there was to be a comprehensive and systematic chapter on interpretation. By the introduction of the rules of interpretation to a system, they would of necessity operate forthwith more strongly and uniformly on the legislation of the future. The reports of the English Courts, inestimably valuable to the lawyer and the judge if rightly and reasonably used, are not infrequently made the means of upsetting the law in India. A chapter on interpretation would interpose a timely check to perverse ingenuity. In the language of Lord Mansfield, "our jurisprudence should be bottomed on plain broad principles, such as not only judges can without difficulty apply to the cases that occur, but such as those whose rights are to be decided upon by them can understand."

The project of framing a Digest of the decisions of Indian Courts did not commend itself to the Commission. Of Indian judgments, as of books, it may be said: "Some are to be read only in parts, others to be read but not curiously; and some few to be read wholly and with diligence." If the Digest were to include all decisions, it would contain much rubbish;

if it were to be discriminative, it would be a bad form of legislation. In deciding which decisions were good, bad, or indifferent, the Government would have to determine what the law was or ought to be ; and while they were doing this, they might just as well legislate at once to prevent all uncertainty or contradictions.

To sum up, the recommendations regarding legislation of what may be termed the Stokes Commission were :—

- (1). To codify the laws relating to negotiable instruments, to the subjects dealt with by the Transfer of Property Bill, to trusts, to alluvion, to easements, and master and servant ;
- (2). To codify the law of wrongs ;
- (3). To codify the laws relating to insurance, carriers, and lien ;
- (4). To deal with the law of Property in its whole extent ;
- (5). To prepare a systematic chapter on interpretation ;
- (6). To abandon the project of framing a Digest of judicial decisions.

The results of that Commission were that four of the Bills reported on became law as the Negotiable Instruments Act (XXVI of 1881), the Indian Trusts Act (II of 1882), the Transfer of Property Act (IV of 1882), and the Indian Easements Act (V of 1882), while the remaining two, the Alluvion Bill and the Master and Servants Bill, have not yet been passed into law. Other Acts of general importance, passed during the period from 1877 to 1882, were the Specific Relief Act, the Limitation Act, and the Acts dealing with Opium, Stamps, Legal Practitioners, Foreign Jurisdiction and Extradition, Probate and Administration, Presidency Small Cause Courts, Criminal Procedure (X of 1882) and Civil Procedure (XIV of 1882)

This is how matters stood when Mr. Ilbert succeeded Mr. Stokes in 1882. India is also indebted to Mr Stokes for the consolidation of much current miscellaneous legislation, the results of which were embodied in the two volumes of English Statutes relating to India, the three volumes of General India Acts (1825-1876), and the ten volumes of Provincial Codes for the Lower Provinces, Bombay, Madras, Panjab, Oudh, Central Provinces, North-West Provinces, Ajmir, Coorg, and British Burmah. An admirable Index to the enactments relating to India was compiled by Mr. S. Jacob and published in 1880.

Mr. Ilbert was Legal Member from 1882 to 1887. On the assumption of his office, he made the following recommendations :—

- (1.) That a Code of Torts should be prepared by a draftsman working in England under definite instructions from the Government of India ;

- (2) That steps should be taken to ascertain whether the Hindu community desired the codification of any of the rules of Hindu family or property law ;
- (3) That a new edition of the Index to the Enactments should be brought out ;
- (4) That a useful Digest of Indian case-law should be framed.

As regards (1), Mr. Pollock's draft, which has been noticed above, was the result ; as to (2), nothing seems to have been done ; as to (3), we have the second edition of the Index published in 1883 ; and as to (4) we have Woodman's Digest in five volumes, completed in 1888.

From 1883 up to date, there has been no codification of importance. The following is a list of the most important measures passed :—

Central Provinces, Tenancy	... IX	of 1883.
Local Boards (N.-W.P., and Oudh).	... XIV	" "
Municipalities ( " )	... XV	" "
District Boards (Panjab)	... XX	" "
Emigration ...	... XXI	" "
Explosives ...	... IV	" 1884.
Punjab Municipalities ...	... XIII	" "
Punjab Courts ...	... XVIII	" "
Bengal Tenancy Act ...	... VIII	" 1885.
Upper Burmah Laws Act ...	... XX	" 1886.
Oudh Rent Act ...	... XXII	" "
Provincial Small Cause Courts	... IX	" 1887.
Bengal, &c., Civil Courts ...	... XII	" "
Indian Marine ...	... XIV	" "
Punjab Tenancy ...	... XVI	" "
Punjab Land Revenue ...	... XVII	" "
Inventors and Designs Act ...	... V	" 1888.
Debtors Act ...	... VI	" "
Civil Procedure Code Amendment	... VII	" "

Important Acts dealing with Local Boards, Mofussil Municipalities, and Presidency Municipalities, have also been passed by the Local Legislative Council.

There still remains a great future before Indian codification. The law relating to government, or constitutional law, should be codified ; then the Criminal Law admits of considerable consolidation, and requires amplification in several directions on the lines of Continental Penal Codes, numerous\* miscellaneous offences, such as cruelty to animals, should be dealt with in the code which applies to the whole of British India. Then a comprehensive Prison Code is much required. The law relating to the enjoyment of property should then be taken

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\* Some of those directions have been indicated in our articles on "Comparative Penal Law" in this Review, Nos. CLXIX, CLXX, and CLXXI for July and October 1887, and for January 1888.

up ; and the time seems to have arrived when the Hindoo law of inheritance may with advantage be codified. The Evidence Act requires to be recast ; and if sanitation really progresses, a code of health may soon be wanted. Lastly, the development of Local Self-Government under diverse Acts in different Provinces may necessitate some broad legislation on the subject of Public Law, that is, the law dealing with corporations.

In conclusion, native communities are rapidly advancing, especially in towns. If we wish to give a new expansive force to Native society, we should not confine ourselves to our narrow English legal system. A wider survey, a comparison of many systems, a truly philosophical induction is called for. The late Mr. Justice Willes remarked that a really well considered code for England should be based on a "comparison with the laws of other countries, *which cannot all be wrong.*" This is no less necessary for India, and the most recent dicta of juridical science, arrived at by the most expert continental jurists and publicists, should be fully utilised in the further codification of Indian Law.

H. A. D. PHILLIPS.

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# ART. X.—MALARIAL FEVER IN BENGAL.\*

WHILE reading through the annual reports of my predecessors, one of the points that struck me most forcibly was the very large number of deaths which occur annually from fever (malarial), and the consequent diseases that in many instances follow fever, viz., anæmia, diabetes, dropsy, enlargement of the spleen, &c. Taking the last five years, it will be seen from the statement given below, that the death-rate from fever every year was nearly three-fourths of the entire death-rate of the province, or more than twice as much as the death-rate of all the other diseases put together :—

NUMBER OF DEATHS AND RATIO PER 1,000 OF THE POPULATION OF BENGAL WHICH, ACCORDING TO THE CENSUS OF 1881, IS 66,163,884.										
NAME OF DISEASE	1883		1884		1885		1886		1887	
	Number of deaths	Ratio.	Number of deaths.	Ratio.	Number of deaths	Ratio.	Number of deaths	Ratio.	Number of deaths	Ratio
Cholera ..	90,439	1 36	134,421	2 03	173,767	2 62	118,368	1 78	172,578	2 60
Small-pox ..	9,714	14	18,533	28	9,863	14	4,049	6	3,846	5
Fever ..	913,766	13 81	966,233	14 60	1,042,142	15 75	1,057,296	15 97	1,087,768	16 44
Bowel-complaints ..	55,270	83	58,376	88	63,808	96	55,693	84	56,893	85
Injuries ..	23,670	35	24,674	37	18,956	28	29,181	43	26,030	40
Other causes	152,817	2 30	176,373	2 66	18,209	2 81	190,818	2 88	204,813	3 09
Total ...	1,245,676	18 82	1,378,610	20 83	1,504,745	22 74	1,455,305	21 99	1,552,528	23 46

These facts are very startling, and when it is remembered that every death from fever probably represents 20 or more attacks, it will be seen what a very large proportion of the population must have suffered. The question at once arises,

\* [This article has been addressed, as a Circular, to the Chairmen of Municipalities in Bengal. It has also been sent to certain papers. We break our usual rule of not inserting any matter that has previously been communicated to the press, or any portion of it for the following reasons : (1) the intrinsic merit of the monograph, which deserves to be preserved in a permanent form ; (2) the *Calcutta Review* is widely circulated in other Provinces, and we think the article should be read by members of Local Boards and Municipalities all over India.—ED.]

what is this fever or malaria which exercises such a terrible influence on the health and prosperity of the people; what causes it; and how is it to be prevented?

Malaria is thus defined in Webster's dictionary:—"Bad air; air tainted by deleterious emanations from animal or vegetable matter; especially noxious emanations from marshy districts, capable of causing fever or other disease; miasma." Dr. Maclean, a celebrated medical authority, says malaria is "an earth-born poison, generated in soils, the energies of which are not expended in the growth and sustenance of healthy vegetation." "By almost universal consent," he continues, "this poison is the cause of all types of intermittent and remittent fevers, commonly called malarial, and of the degeneration of the blood and tissues resulting from long residence in places where this poison is generated."\* A great deal of discussion has from time to time taken place as to the intimate nature of malarial poison, and much light has been thrown on the subject by the researches of Professors Tommasi Crudeli in Rome, Klebs in Prague, Laveran in Algeria and Italy, Osler in the United States of America, Vandyke Carter in Bombay, and other scientific authorities who have made the physical cause of the poison to which malarial fever is due the subject of careful investigation. Tommasi Crudeli and Klebs have found a germ in cases of malarial or intermittent fever, which they assert is to be met with in the soil and air of malarial districts, and can be demonstrated in the blood of affected patients.† Dr. Vandyke Carter of Bombay says that malarial infection can be acquired through both air and water.‡

Whatever may be the active principle of causation of malarial fever, sufficient is known of the conditions under which such fevers occur to warrant the conclusion that the agent is, as stated in Parke's *Practical Hygiene*, "associated with some kind of decomposition or fermentation going on in the soil, especially when conditions come together of organic matter in the soil, of moisture, heat and limited access of air." There can be no doubt whatever that a humid soil is proverbially unhealthy, and marshy and water-logged lands have been recognized, the world over, as a cause of paroxysmal fevers. Professor Max von Pettenkofer's opinion is that humidity of soil is a necessary factor in the etiology of fever epidemics. Dr. David Smith, who was for some time Sanitary Commissioner for Bengal, says "there is constant and close connection between humidity of soil and high rates of sickness." The

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\* Quain's *Dictionary of Medicine*, page 913.

† Ziegler's *Pathology*, page 297.

‡ Paper on "Some Aspects and Relations of the Blood-organisms in Ague."

same authority asserts that "the fever of the Bengal districts is beyond all doubt an endemic malarial disease due to local causes, chiefly want of drainage, partial or complete stagnation of water-courses, and saturation of the soil with moisture."\* The late Hon'ble Rajah Digamber Mitter, C.S.I., a well-known and greatly respected zemindar, writing of the causation of malarial fever in Bengal, says "the type of fever met with in the epidemic districts is solely due to a something in the soil, and the condition most favourable to the development of that something, is excessive or abnormal humidity of the sub-soil. The cause which operates most powerfully to produce that condition, is impeded drainage: it is the inordinate humidity of the sub-soil of towns and villages, and not of the *paddy-fields* and *jullas*, which contributes to the outbreak of the fever with epidemic intensity."† Dr. K. McLeod, the late Health Officer of Calcutta, says that "nothing in the etiology of malarial fever is more certain than that excess of rain or inundation is followed by excessive prevalence and a fatal type of fever."‡ The Council of Hygiene of the City of New York reported, after a most carefully-conducted series of hygrometrical observations, "that any marked degree of excess of humidity in any locality was, without exception, found to be associated with an excessive constant sickness rate, and with all kinds of contagion and infection." Mr. Simon, Medical Officer to the Privy Council considers that "an undrained or damp state of soil in populous localities is dangerous to public health."§ In olden times Hippocrates stated that "the spleens of those who drink the water of marshes become enlarged and hard," and Rhazes not only asserted the same thing, but also affirmed that fevers were generated from the same cause|| In more modern times Lancisi has expressed the opinion that the air of marshes is the sole cause of intermittent fevers. Dr. Maclean, however, says "that marshes are not, as a rule, dangerous when abundantly covered with water: it is when the water level is lowered, and the saturated soil is exposed to the drying influence of a high temperature and the direct rays of the sun, that this poison is evolved in abundance."¶ The production of malaria on a great scale in this way was seen in the district of Burdwan not many years ago. The soil is alluvial, but dry; and until within the last few years Burdwan was more

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\* Sanitary Report of Bengal for 1868. • •

† Digamber Mitter on the Origin of Epidemic Fever in Bengal.

‡ Report of the Health Officer of Calcutta for 1879.

§ Sterndale on Municipal Work in Bengal.

|| Parkes' *Practical Hygiene*.

¶ Quain's *Dictionary of Medicine*.



salubrious than the central or eastern districts of the Lower Gangetic Delta. The drainage of the district became obstructed by the silting up of its natural and artificial outlets, the result being a water-logged condition of the soil, the development of malaria, and an alarming increase in the death-rate.

I think I have quoted enough from high sanitary authorities to show that malarial fever is associated with the effluvia from marshes and low-lying and badly drained situations, which must be improved before any improvement in the health of the people can be hoped for. In the words of the late Hon'ble Rajah Digamber Mitter, who has already been quoted, "there is a perfect unanimity now amongst all those who have devoted their time and attention to the subject, as to impeded drainage being one of the chief causes, if not the sole exciting cause of epidemic fever." Dr. K. D. Ghose has also pointed out in the course of a lecture delivered by him in 1885 at the Bethune Society, on the sanitary outlook of Bengal, that "the cause of fever in Bengal is the want of proper drainage of the soil." "Drain the land," wrote Dr. J. M. Coates, who was Sanitary Commissioner for Bengal in 1874, "so that the rain runs quickly off, or keep the subsoil water so far from the surface soil, that the supersoil does not remain damp, decomposing, and evaporating, and healthy people are the result." \* Sir Ranald Martin, in his admirable work on the influence of tropical climates, writes as follows with regard to the question of draining lands in the vicinity of marshes:—"It is not sufficient to convert the ground into a state of soft, low, meadow land; for the most dangerous exhalations are those which are retained and occasionally emitted from under a crust of earth during the drying process, whereby they would appear to acquire unusual concentration and prove the origin of the worst fevers. It is necessary that the grounds be thoroughly drained, leaving none of the characters of marsh." In all countries experience points to drainage as the chief preventive of fever epidemics, and shows that the population of towns has grown in health and in comfort, with the progress of drainage and reclamation. Hippocrates states that the City of Abydos had been several times depopulated by fever, but the adjoining marshes having been drained by his advice, it became healthy † Dr. William Fergusson tells us that in the colony of Demerara, within six degrees of the equator, the efforts of man directed towards drainage and agriculture

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\* Report of the Sanitary Commissioner for Bengal, 1874.

† Parkin on the Causation and Prevention of Disease.

have "rendered the deepest and most extensive morass probably in the world, a healthy, fertile and beautiful settlement."

We have a good many memorable illustrations of the same fact in England. Important reclamation and drainage works have been executed in Lincoln, Norfolk, Suffolk, Kent, Essex, Somerset, Cambridgeshire, Huntingdon, Nottingham and Yorkshire. These lowlying and so-called "drowned lands" and poisonous swamps have been embanked, drained, and cultivated with the most happy results. The great level of the Lincolnshire fens, some 2,000 square miles in extent, which was once dreary and pestilential, is (since it has been drained and reclaimed) no longer the lurking place of disease, but as salubrious as any other part of England.\* It is not, however, necessary to search in the history of olden times, or even to look out of India for good results from thorough and systematic drainage. The City of Calcutta itself is a remarkable instance of the diminution in mortality from fever, and improved health since the city has been thoroughly drained. While the number of deaths from fever in the suburbs of Calcutta and the surrounding districts where there is no drainage, or the drainage is defective, shows no diminution, but rather a tendency to increase, the mortality from this cause in Calcutta grows less year by year with the extension of the drainage system. "Since the year 1879," writes Dr. J. O'Brien in his annual Health Report of the Town of Calcutta for 1884, "there has been a very remarkable and sustained reduction in the fever mortality of the city. During the years 1874 to 1879 the average annual number of deaths was 5,030: in the four succeeding years, 1880 to 1883, the average fell to 3,655, or nearly 1,400 less, and in the past year (1884) the total was 3,618. The diminution in mortality from diseases of this class would appear to keep pace with the extension of the system of underground sewers, and with the improved surface drainage and reduced soil moisture which follows the introduction of sewers into undrained localities." Numerous other instances could be quoted to show, that wherever sub-soil drainage is effectually accomplished, good results, in a sanitary point of view, are conspicuous. But it is not necessary to multiply the examples already given.

It is of course not to be expected that mofussil municipalities, with their limited resources and many urgent needs, can accomplish as much in the direction of drainage as the Calcutta Corporation and other wealthy municipalities have done in as short a time, but with steady perseverance there is no reason why, in the course of a few years, the surface and sub-soil

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\* Dr. D. B. Smith's Report on the Drainage and Conservancy of Calcutta.

water which now 'saturates the areas of mofussil towns and villages should not be drawn off, and damp habitations thus rendered dry, and an amount of salubrity obtained which these localities have never known. If surface and sub-soil drainage accomplished nothing else, it would be worth all the money expended on it, as marking an era in the history of Indian sanitation. But there can be no doubt whatever that improved health and better physique would follow its introduction. Where now are to be seen wretched beings of sallow and ghastly countenance, looking twice their real age, with attenuated frames, shrunk limbs, muscles thin and powerless, tongues of silvery whiteness (certain index of deadly marsh fever), pulses feeble and irregular, spleens and livers enormously enlarged, and pitiable languid gait, would be found men well knit, with their muscles developed, and their vital organs sound—altogether powerful, vigorous, healthy and happy.

In many towns great difficulties, other than monetary, will no doubt be met with before the desired result can be attained, but these should not be allowed to overbalance the advantages to be derived from a thorough and systematic drainage system. Great difficulties were at first experienced in England, but they gradually disappeared as improvement advanced. Not many years ago drainage improvements were as little known in many parts of England as they are at present in India, and much controversy and opposition preceded their introduction; yet populous and now flourishing districts have been drained in the face of great difficulties. There is no reason why similar results should not be obtained in India, and Municipal Commissioners should be urged to do all in their power, and devote as much of the municipal income as they possibly can, towards improving the drainage of their municipalities,—the only means by which the present enormous death-rate and suffering from fever can be diminished, if not altogether prevented.

W. H. GREGG, *Surg-Major,*  
*Sanitary Commissioner for Bengal.*

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[INDEPENDENT SECTION.]

ART. XI.—THE INDIAN NATIONAL CONGRESS.

THE National Congress is a new growth in the country and is the result of many changes that have come upon India in recent years. Its aims and objects are known to a few, mis-known to a few others, and unknown to many. I am one of those who hold moderate views upon this subject, which has divided the learned men of the country into hostile camps; and I beg to offer those views for calm and candid consideration.

The National Congress is a faithful attempt on the part of the educated natives of all India to improve their political condition. It is natural that in matters which require the co-operation of many, some only should begin the movement, which, in its progress, gradually gains strength at every step. It is most irrational to require, as a necessary condition of a national movement, that the whole nation should begin it. We can only expect individuals to begin, though the nation will in time embrace it. Is there one single instance in the world's history, where any institution originated with a whole people? Will any one refuse to accept the truth of the law of gravitation because it was Newton alone who discovered it? The National Congress is composed of men gathering together in one place from all parts. These men are chosen at meetings held in those several parts. Perhaps they are not chosen by as many people as might be desired. It is an itinerant school of politics. It sits by turns in all the important centres of the country. It informs the people of their needs, and teaches them the cause of their sufferings. It helps them to know and seek remedies. It busies itself with questions of practical politics. It professes to do all that is necessary for the public good in a political point of view. It does not busy itself with social questions. Infant marriage, and such matters, do not fall within the sphere of its discussions. Public good is its watch-word. Public good is its goal. Public good is what it loves from the bottom of its heart. It strives hard against pernicious taxes and unnecessary restraints. All restraint is an evil. But in every society, there must be restraints. Liberties given to A. suppose restraints on other persons than A. not to violate those liberties. But restraints must be imposed discerningly. The Congress points out to the rulers the way to exercise this discernment. It tells them, for instance, that the Arms Act is a useless burden. It

endeavours to gain the hearing of the Government to the people's wants. Every Government must have at heart the improvement of the commonweal. A wise Government must always try to know the needs of its subjects and to satisfy them. The great majority of the country are dumb. They want interpreters; they must have spokesmen to communicate to the Government. It is not always true that the people know what they want better than the so-called representatives. It is not perfect truth that every one knows what is good for him better than any other. Adults must not be kept in leading strings; but children must be. Until they can walk, and walk with safety, they must be taught to walk and guarded carefully from dangers. The great bulk of India people are like children. Her educated men are their fathers. From their varied knowledge and wide experience, they know well what the country is in need of. Only folly and ingratitude can dare deny that our condition has been greatly improved since the advent of British rule. It must, however, be confessed that there is much to do. In the press of business, even the most enlightened Governments may pass unconsciously over some real grievances. It is an impossible task for them to allay grievances which do not reach their ears. The National Congress is the medium through which they reach the ears of the Government. That seems to me to be its exact position. There exists no very grave reason why the integrity of the delegates should be much doubted. In every country, in every clime, there is a class in power. In India, at present, it is the educated class that is fitted by their station and talents to form and guide the sentiments and opinions of the public. In my humble opinion, the educated class, as a whole, is tainted with some superficial vices. Our ancestors were not unlearned. They had schools, colleges and universities; they composed immortal works. Panini's *Sutras* are the pride and admiration of any nation or age, and the imperishable monument of the Hindu's unsurpassed genius and unrivalled ingenuity. The six systems of philosophy were founded by the greatest masters of human nature which the world has ever seen. We must assiduously learn whatever is good in them. Civilisation has taken a new turn. The current of Western ideas must not overwhelm indigenous notions. There is no need for changing our dress or modifying our manners and customs for the sake of mere change. Let us absorb whatever is good, come whence it may, and at the same time retain whatever is excellent in us.

Some people have been asking, what is this Congress? What has it really done? These people judge of usefulness by results. But what is the true standard of the utility of an institution? It is but natural that men should have a good opinion of

anything which in the end proves a success, and a bad opinion of anything which in the end proves a failure. But such a test cannot, with any fairness, be applied to an institution which was established only the other day, as it were. They greatly err who estimate its utility by the actual good it has done. The true estimate is by the amount of possible and probable benefits it may confer upon the country.

The benefits of the National Congress are direct and indirect. Directly, the National Congress widens the circumference of Indian politics, enlarges the sphere of her aspirations, and will bring to us a larger share of liberties and privileges. We must not imagine that all this will be the work of a year or two. The English House of Commons, which has sat for so many centuries, is still fighting for enhancement of privileges. By its very nature, political advancement is the work of time. We must show ourselves deserving before it is given to us. Until the people at large distinctly know what the Congress is, what its nature, what its scope, what its constitution, and what has been its work, we shall be considered as undeserving. The truth is that the great majority of the natives are in a state of political darkness.

There are also many indirect benefits we have reaped, and will reap with the aid of the National Congress. In the first place, it will produce orators of the highest excellence. Eloquence is only a second-rate faculty. But eloquence has been a pioneer at all times and in all countries. Our country, which has had the greatest and noblest teachers and religious preachers, wants political preachers now. That want will be supplied from the National Congress. Secondly, the National Congress is a sort of university of politics. Our ideas of the British Parliament are vague. It requires a strong imaginative faculty to picture to ourselves what takes place in that great assembly. Our notions of political assemblies are flitting; there is no permanency about them. The National Congress invests them with an air of reality. The words and phrases, which hitherto we had only indistinctly conceived, become distinct. Experience corrects theory. Reason confines imagination.

Thirdly, a spirit of liberalism is infused into men's minds. We cease to think that there is no world like ours beyond us, and that we are the only superior beings. Selfishness is uprooted. Contact with men of different provinces, their manners and customs, teaches us a spirit of toleration and mutual forbearance.

But in the most general applause, discordant voices will always be heard. There are a set of objectors to the National Congress and its doings. Of late, their clamour has increased.

The sum of actual and possible objections is, that the National Congress is a misnomer, that a few individuals, pluming themselves on the name of delegates, without any authority to warrant the name, cannot represent the views of the nation; that by no possible means can the great and various tribes of India, speaking different languages, be united into one nation; that we ought not to claim so early what the English have attained to in the course of long centuries; that the nation is not ripe for what the Congress asks; that in reform, social questions must take precedence of political ones; that what is beneficial in England may be pernicious in India; that certain classes of the community are not represented; that the deep questions of political science cannot be discussed in an unwieldy assembly like the Congress. Let us take these objections one by one and see what truth is there in each.

As to the first objection; that the National Congress is a misnomer, it has already been partially answered. How far back can we date the period, since which the English House of Commons can be truly said to represent the English people? Under what restrictions and limitations was the electoral body formed? Was not the House of Commons so called before the whole English people had any voice in the elections? Why need I justify what needs no justification? There are certain lawyers and judges, who by a too close adherence to formalities, which neither sense nor law requires, defeat the real objects of the law, and dismiss suits without inquiring into the merits. It is even such an absurd procedure they adopt, who object to the *name* "National Congress."

As to the second objection, that the inhabitants of India can never become one nation: No doubt, at present, the customs and manners of the people differ vastly: they speak many languages: strong religious feelings tend to keep them separated. But all these causes of disruption are becoming every day of secondary importance. English is becoming the common language of communication between peoples inhabiting different parts of the country. Further, class failings have no share in the reforms proposed to be effected through the instrumentality of the Congress. To weld, therefore, into one homogeneous mass, to be known as the Indian Nation, the various peoples of India whose traditions are hallowed by the same historical fountain, to unite them in pressing for reforms which are for the common interest of all India, is not a chimera, but a practical political problem, the conception of a real constructive genius.

The third objection is, that we ought not to claim so early what the English have attained to only in the course of long centuries. On the face of it, this objection is trifling. What

does the objection mean but that we should transport ourselves to rude and uncivilised times, so that we must ascend, step by step, to where we are now, and then proceed? To what purpose, indeed, do we read history, if not to benefit ourselves by the accumulated knowledge and experience of the world's master minds? What is it which demands of us that we should not adopt those political institutions which we find so well answer, and so well flourish in other countries?

The fourth objection is, that the nation is not ripe for what the Congress asks. Here, indeed, is a valid objection. The Congress is composed of influential and educated men. Every enlightened Government defers to the opinions of the educated class of the community. But it must take care that the educated class have moral as well as intellectual qualities, which give weight to their opinions. They must possess integrity as well as knowledge. In the present state of our society, there is certainly reason to look with suspicion upon the claims of the Congress. Our educated men often look with contempt upon the uneducated. They cannot fully enter into the feelings of the masses. The masses, too, have their own prejudices against the educated class, and often look upon them as outcasts. There is no use in attempting to answer this objection by mere words. The most effective way of shewing that the objection is unfounded, is by deeds. We must put in practice what we preach. When we expect others to have more sympathy with the rustic, we must follow up the exhortation ourselves. There is another defect on which much stress may be laid, and very properly, I think, by the opponents of the Congress as justifying the above suspicion. In Madras at any rate,—I cannot speak of other Provinces\*—on the occasions of appointments to lower employments in various departments (with great sorrow and shame, I say it), I have heard people ask the question, whether the incumbent of the office can get any, and what *Melvārumbadi* as they call it in Tamil. This *Melvārumbadi*, translated into English, is additional income. This additional income is nothing but illegal gratification, bribery, the subject of the gravest of all offences against public justice. People seem to look upon it as a natural incident to Government employments. *They have not the slightest idea of its criminality.* In view, therefore, of recent disclosures of corrupt practices in the judicial and revenue departments in the Madras Presidency, and the apathy of the general public in appreciating the justice of the punishment meted out, nay, the sympathetic disapproval

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\* [This was written before the Crawford Commission.—ED.]



of such punishments, I should be strongly inclined to oppose the grant of any measures which involve the bestowal of any electoral power on the people at large. If, for example, the reform of larger representation in the councils were to be granted now, I fear it would be a very doubtful boon. The amount of caution necessary to sift the electoral body, and in the last resort, the representatives of the councils, would probably not be exercised. Moreover, I should fear that many most irregular, eccentric, and corrupt influences will be brought to bear upon the elections. I should, therefore, prefer to consider the demand for this reform as a demand which cannot and ought not to be granted at present.

The fifth objection is, that in reform, social questions must take precedence of political ones. This raises the question, whether political improvement and social improvement may go on apace, or whether either should precede the other. The question, indeed, is a very pressing one. Its solution cannot long be postponed. My own opinion is that political and social improvement may go on together, each acting on the other, and in its turn acted upon by the other; that though progress on the social line will be advantageous to that on the political, still it is not absolutely necessary; that though social reforms will accelerate political progress, yet, their absence cannot retard political progress.

The sixth objection is, that what is beneficial in England may be pernicious in India. This objection overlooks the truth, that human nature is the same everywhere; that notwithstanding varieties of country and climate a nation's wants and aspirations are similar, especially if they come from the same race, and possess equal intellectual strength. Despotisms, no doubt, have sometimes produced good, and democracies have often been pregnant with evil. But what is essential in any form of Government is, that the people, or those who may fairly be supposed to represent them, should have the means of apprising the Government of their needs.

The seventh objection is, that certain classes of the community are not represented. This is not a fact, and if it were, whose fault is it? Who denies the right to the classes which are not represented? Their claim is in no danger of being overlooked. It is in no party spirit the Congress works. It is a common cause the Congress is engaged in. So far are the congressmen from entertaining the slightest intention of perpetuating disunion in India, that they are trying their utmost, and devising all possible means to induce the masses to sink private animosities and religious ill-feelings in one grand cause.

The eighth objection is, that the deep questions of political science cannot be discussed in an unwieldy assembly like the

Congress. Here is a real difficulty. It were vain to deny it. I will not undertake to give any definite answer to this. The recondite problems of political philosophy, are, in my opinion, unsuited to the discussions of assemblies like the Congress. The evil can only be palliated.

Such are the objections, actual and possible, and I have tried to answer them. The delegates of the Congress are not working for their own aggrandisement. They are working for themselves and for others. The delegates may be self-chosen sometimes; but what matters it whether self-chosen or otherwise, provided their aims are unselfish?

The question at issue between the Congress and its opponents is a question of means. No dissentient voice will disturb the common consent as to the end. The end is public good. No one will deny that political improvement, improvement of the people in civil status, is a department of public good. The only difference is, whether the Congress is the proper instrument to achieve our end in that department of public good. No one can doubt that it is a fit instrument, if the Congress is really what I have expressed it to be. On this, however, unfortunately, there is room for more than one opinion. Not much can be gained by meeting together once in a year for three or four days and then dissolving after much speechifying. In the period intervening between a Congress and the next, the delegates should try to educate the masses as far as they can. To those who have had actual experience of the meetings and proceedings which are reported in native newspaper, they will appear very sorry work. I do not wish to underrate the importance of such meetings. Those who attend them are those who already know something of the Congress. Now and then a more than ordinary speaker addresses the meeting, and presents to them some new points of view, and places before them some new arguments for or against the Congress. To ask every one who knows anything of the Congress to go out and preach, will be dangerous, and will result in much useless stuff being poured into men's minds.

The people have remained for ages strangers to political organisation. The most elementary principles of Government are yet to be learnt by them. Their minds must be approached by slow advances. To put before them the developed idea of Representative Government, the slur, real or supposed, involved in the Arms Act, the proposal for organising a system of volunteering, is not possible, and will be useless, if it were possible. When people have for a long time been used to despotic government, *i. e.*, government by a king to whom was attributed the characteristics of God, thus formulating the idea of what was afterwards known in England in the 17th

century, as the Divine right of kings, that is the only Government they can understand : when they have no distinct conception of what is meant by loyalty and slur upon loyalty, when they have absolutely no idea of volunteering, its object and necessity, when, in short, the idea of personal irresponsibility and Government responsibility are the predominant genii of the popular mind, it is useless to entrust the duty of instruction to half-informed men. There have not been as yet in the Mofussil of this Presidency any real attempts to instruct the masses. The fourth Congress is shortly to be held,\* and much earnest work is being done in the way of electing delegates to the Allahabad Congress. The local enthusiasm is great ; but it is mainly confined to the few. The minds of the uneducated are dormant. The first duty, therefore, of every person, interested in the well-being and prosperity of the Congress, is to get for himself a clear, unadorned idea of it, and the next, to impart that idea to his ignorant brethren, with all the arts and precautions of a careful instructor of youth, for many of the educated are mere tyros in politics, and many of the people are mere nonentities. He must, lastly, make them realise the import and significance of the various measures it is proposed to urge upon the Government for acceptance ; for, only when the Government knows that the people have lent the sanction of their voice, will the measures be granted.

K. S. GANAPATI AYYAR,

B. A. & B. L.

\* [This article was written before the last Congress.—ED.]

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[INDEPENDENT SECTION.]

ART. XII.—THE NATIONAL CONGRESS.

A CONVERSATION •

BETWEEN

SYED HUSSAIN ALI, AND

BABOO BHAGOBUTTY BOSE, M.A., B.L.,\* *Congress Traveller.*

*Traveller.*—Syed Saheb, I was unsuccessful in getting an appointment in Government service. So I became a licensed preacher of the National Congress. I am a servant of the Indian Nation. My duty is to go from town to town, and village to village, to explain the objects of the Congress to the people and to enlist their sympathy with this noble movement. You are a literate and an able man. You must know all about the Congress from the printed reports and pamphlets, and especially from the controversy between Farid-ud-din and Ram Buksh. It is not therefore necessary for me to enter into details. Please inform me whether you co-operate with us.

*Syed Saheb.*—Well, from your prologue that you are a slave to the Nation, and that you have undertaken a public duty, I was able to understand that you are a creature of the Congress-wallahs. Your being a paid servant convinces me that you have no alternative but to be so. Your disappointment in not obtaining service under Government obviously shows that the fire of rage is burning in the furnace of your heart.

Listen to me, please, I am a man of old fashion and have been brought up in indigenous schools. I am altogether opposed to the Congress. Somebody sent a copy of Farid-ud-din and Ram Baksh's dialogue to me by post, and I heard that about 50 copies more came to my villages from the same unknown source. I read the book and found that it contained no facts, but was a store of imaginary falsehoods. The author's intention is to spread sedition by means of his sweet words. I collected all the books before they were read and reduced them to ashes.

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\* [We have had to curtail the original a good deal. In the original, there are also a Reporter and four Arbitrators, who invariably concur with the Syed Saheb. There is a long introduction, dealing principally with caste, which we have entirely omitted. We have toned down expressions here and there, and have improved the English in places. The original was written in Urdu by a Mahomedan gentleman of the North-West Provinces. It will be seen that Mr. B. Bose is vanquished by the eloquence and cogency of the Syed's arguments.—ED.]

I am ready to discuss with you the aims and objects of the Congress, and I declare candidly that if you will convince me by the force of your eloquence that the Congress is generally a useful institution, I will plainly admit that I have been won over.

*Traveller.*—Very good—let us now enter into a regular debate. Setting apart for the present the advantages of representative Government, the manner of establishing such a Government, and of giving it a shape as set forth in all their details in the conversation between Farid-ud-din and Ram Buksh, let us note the energy and public spirit displayed by the author in the composition of the book ; how graphically he has depicted the true state of the children of the soil, and how cleverly he has brought the book to an end. Now tell me if the book is not such that it might be appreciated and read attentively by the people, the amelioration of whose condition is its ultimate aim ?

*Syed Saheb.*—I am obliged to you for your kindly setting aside for the present the question of representative Government and its corollaries. By this wise arrangement, the discussion on each point will remain within reasonable bounds. Now to speak of the merits of the book and its general features, I am of opinion that the author displays a sad want of common sense throughout the work. To show the prosperous state of the public, he has fixed upon an imaginary village calling it Shamspur, whilst to show the adverse state, he has chosen another village naming it Kambakhtpur. The descriptions which he gives of these villages are so purely imaginary, that such places never had, and never could have existed. Their existence is impossible. When you compare two objects with an intention of calling one of them good and the other bad, it is necessary that both the objects should have an actual existence. Wise men never believe in things which do not exist in reality.

*Secondly.*—The author has called the Government of Shamspur representative, but he has shown that in village politics only Dharam Singh and his co-sharers had a voice. It is nowhere stated that the tenants were also listened to or consulted. If Shamspur could prosper without the lower orders being consulted, it follows that, to render a place prosperous, it is not necessary that the Government of that place should be representative.

*Thirdly.*—The author has made an ignorant Mukaddam hold parley with an M.A., B.L., on matters political. The Mukaddam sits as a cypher to admit everything that falls from the mouth of the speaker. He does not put the speaker's propositions to any test by cross-examining him or questioning the truth of his assertion. Under such circumstances I am of opinion that the conclusion arrived at cannot be termed sound.

*Fourthly.*—Amongst the alleged evils that are said to result from the want of representative Government, the author has included the delinquencies of the Police as the most revolting. He has shown these delinquencies in such a light that his remarks lead one to believe that the Government wilfully permits the police to prey upon the people in a high-handed manner. But it is not so in reality. The truth is that the Government always regards the Police with suspicion. It is so keenly alive to its irregularities, that in the Evidence Act the framers of the law have provided that no confession is to be taken as such, if it has been made when the party making it was in the custody of the Police. The reviews of the annual administration reports and the English newspapers abound with complaints against the Police. It is a pity that you do not point out any remedial measures, but only point out the defects already known.

*Fifthly.*—By expressions like the following:—"our Government is undoubtedly despotic, and a despotic Government when long continued is bad for every country, and we and our country are suffering in a hundred ways on this very account," the author has avowed that his object is to spread discontent, which in course of time will lead to seditious attempts to overthrow the Government.

In short, the book teems with folly and sedition, and is, in my opinion, deserving of the treatment it has received at my hands.

*Traveller.*—In addition to the preliminary remarks against the book, you have summarized the defects of the book under five heads. If you permit me I will reply to each of them separately, so that the train of ideas may not be confused.

*Syed Sahab.*—I agree, and beg further to inform you that my lengthy introduction was a necessary rejoinder to your vague statement.

*Traveller.*—That a man may become fond of a thing, it is not necessary that the thing should be one having a real existence. The description of its qualities is enough; for instance, Paradise has not been seen by anybody, but a mere description of its charming beauties has an attraction for people. Shamspur is an imaginary name. You are at liberty to put the name of an English County in its place.

*Syed Sahab.*—People believe in the existence of Paradise because they are bound by the doctrines of their religion to have an implicit faith in its existence, and also because they have heard about Paradise from the prophets, belief in whose veracity is their bounden duty. With all this, if the opponent does not believe in its existence, he cannot, on any earthly ground be compelled to do so. In addition, I have to say that your argument about Paradise does not hold good in political matters, where facts and nothing but facts are admissible.

*Traveller.*—If actually the book does not show that Dharam Singh consulted his tenants, this is to be counted as an inadvertent omission. Coming to the soundness of reasoning embodied in the pamphlet, I will urge that since the Government of the country has passed into the hands of the British, the country has become poor. All classes of the people, *viz.*, cultivators, servants, traders and zemindars are now worse off. They are treated as if they were brutes, a deaf ear is turned to their cries, and they are subjected to every species of cruelty. My question is—whether the time has not come for the country to shake off its torpor and open its eyes to the tyranny under which it groans?

*Syed Saheb.*—My answer is that your accusations are entirely false and groundless. The bare truth is that the condition of all classes of natives has much improved since their good fortune has placed them under the benign rule of the English. You say that the state of the cultivators is now bad. This implies that there were days, say in the "Nawabi,"\* when this state was good.

Now, if there is any truth in what you assert, there would have been visible signs or remains of their previous affluence. You must show that they have left goods, houses, or estates for their children. But as neither you nor anybody else on earth can show any such signs of the so-called affluence of the cultivators who lived in the Nawabi, I must positively deny the assertion that the cultivators formerly were in a better condition.

I allege that the state of the cultivators is now better, and in proof of my statement, I allude to a fact of which living witnesses are still to be found. It is a known fact that, in the time of Nawab Asif-ul-doula, there occurred a famine in Oudh when grain was sold at an average price of 13 seers per rupee. This price told so heavily on the peasants, that not being able to keep themselves alive, thousands of *krishans* (cultivators) sold their sons and daughters. The descendants of hundreds of slaves sold in that famine are still seen in towns and cities. Now draw an inference about the better state of the tenants of our time, from the fact that grain is universally selling at the above, or only a little higher rate; still, our tenants manage to maintain themselves and their families and children. They are not reduced to the painful necessity of selling their beloved sons or daughters. If you say that their poverty is as great now, but that they dare not sell their children in the face of the Slavery Act, I reply that were they in such poverty as to be reduced to see their children starve, they might make

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[\* The Nawabi, *i.e.*, the era of Mahomedan rule.—ED.]

them over to rich people that the children may receive support in return for services rendered. No such sign of their poverty is to be observed. To all appearance they do not seem hunger-stricken, but on the contrary, they are well-contented and healthy. Watching carefully the way in which they perform their domestic rites, you will gather other facts which will establish the truth of their being in better circumstances than their forefathers. Their ancestors were so poor that, in defiance of the custom followed by all other classes, they gave their daughters in marriage to anyone who paid them money, and being too poor to part with any part of even this ill-gotten gain, they used to hand over the girls to the purchasers without any ceremony, leaving it for the purchaser to get the union sealed by a Brahman at his own house. This form of marriage was known as "Dowla." The present generation is gradually doing away with this objectionable system of selling girls, and is replacing it by regular marriage which costs them a good deal. Their tendency towards this reform would have been thwarted in its very commencement, if their pecuniary state had not been gradually improving.

At their festivals they now look brighter, better-fed, and more contented than they used to do on such occasions in former days. Their females appear in better dresses, and are often seen wearing silver ornaments, which were unknown to them in "Nawabi." These are nothing, if they are not signs of a better state.

In "Nawabi," the cultivators' share of the produce was so small that, finding it inadequate to meet their bare wants, they were compelled to supplement their income by working as day labourers. Now, the cultivators have no necessity to work as day labourers, and hence the scarcity of labourers. So that whilst in the Nawabi we could get a coolie for 6 pies, we can hardly get him now for 2 annas.

Past Governments never concerned themselves with the condition of the cultivators, but the British Government is always looking to their welfare. The Government have conferred the following benefits :—

(1.) Canals have been constructed to guard the tenants from the calamities of drought.

(2.) For the first time in the history of India, the Government has given fixity of tenure to the tenants, and prevented their arbitrary ejection.

(3.) Government has encouraged the tenants to improve their holdings, by enacting that they will have the benefit of their improvements.

(4.) Government keeps the village papers so carefully, that it has now become almost beyond the power of a Zemindar to



deceive the cultivators by realizing more than what is justly due from them.

(5.) Government has cleared jungles and has thus brought more land into cultivation.

(6.) It has started a system of *Takavi* (advances) which assists the tenants very much in purchasing live-stock and seed and procuring implements of husbandry.

(7.) It has established an Agricultural Department, and appointed scientific men, whose duty it is to devise measures of improvement, and bring them to the knowledge of the tenants.

(8.) It has instituted Agricultural Exhibitions, which, serving as fields of competition, encourage the tenants to improve their grain and live-stock.

(9.) Over and above all, it has given absolute security of life and property, which alone is the prime factor for the development of agriculture.

In short, Government protects the cultivators from oppressive and rapacious Zemindars, as is proved by the Tenancy Acts passed for various Provinces.

*Traveller.*—Why has the rate of rent risen so high? Can you assign any other reason for it except that the Government has assessed excessive Revenue. Again, tell me, whether the Government does not charge rates for the water which it supplies from its canals.

*Syed Sahab.*—With respect to the Revenue, it is enough to say that it is not more than proper. The share which our present Government takes from the produce of the soil is half the net produce, nominally: it is actually not more than a tenth of the gross produce; but even the enlightened Akbar took one-third of the gross produce. As to the canal rates, the Government has, in token of its solicitude for its subjects, made these canals at an enormous expense, and employs thousands of men at an aggregate cost of some lakhs annually to maintain them and supervise their working. Is it unbecoming, under these circumstances, for the Government to levy a light tax?

*Traveller.*—But do you not think the condition of those in service has grown worse?

*Syed Sahab.*—It can be shown that the number of appointments has vastly increased. The English Government has created many Departments and offices which did not exist in "Nawabi." The Courts, Criminal, Civil and Revenue were not so many as they are now. The Departments of Education, Medicine, Vaccination, Sanitation, Post office, Canals, Customs, Opium, Public Works, Police, Railway, Telegraph and Jails either did not exist, or only to a nominal extent.

Under Hindu and Mahomedan rule, appointments were given only to certain classes. The British Government has thrown open all appointments to those who are fit for them. You, with your equality and representation theories, surely cannot condemn this liberal policy. It is enough to say that office posts are far more numerous than under Nawabi rule, and that a very large number of natives are holding appointments. Government cannot undertake to give employment to all its subjects. Even a representative Government could not satisfy all place-seekers.

*Traveller.*—But can you explain why the Government has reserved so many posts for Europeans, and why it pays Europeans at so much higher a rate?

*Syed Saheb*—A ready answer to this question is that the English nation has conquered India, and therefore there is no reason why the Europeans, in their capacity of conquerors, should not have special rights. History proves that when the Hindus were the rulers, they allowed special rights to Brahmans and Chattris who were placed so high, that the lower orders were told to adore them as celestial beings. All the posts of trust and importance were in their possession. When the Mahomedans gained the empire, they in their turn allowed almost all the appointments to be monopolized by men of their own race. The English Government has done nothing of the kind. They have reserved some of the important posts for Europeans, and have given all the rest to you, and this they have done before they could test your loyalty. They increase your share of appointments by degrees as you become qualified and educated. Take any district for instance, and see that out of many thousand public appointments sanctioned for it, only three, or in some instances four, are occupied by Europeans, while the rest are in our hands. The few in possession of Europeans require tact, training and honesty of purpose, which, in my thinking, are possessed by only a very few of the men of our country. Were the Queen to call back the Governor-General, the Governors, the Lieutenant-Governors, the Judges of the High Courts, the Commissioners, the Deputy Commissioners, the Collectors and the Heads of all the Departments, and were she to confer those appointments upon the graduates of the Indian Universities, or upon the hatted and coated native Barristers, or upon the shrieking Editors of slanderous native papers, how would the country fare? One shudders to think of it! Your education is dark ignorance compared with the education of the European. From what I know of the true nature of my countrymen, I have no hesitation in saying that their rule would cause anarchy throughout the length and breadth of India. Then,

imagine for a moment, whether the change would be liked by the native public? No! to tell you the truth, the mass of natives are suspicious of you, the educated few, and have a strong faith in the honesty and impartiality of Europeans.

I have proved that the country (the obstinate educated few excepted) requires the services of Europeans, and in that case it does no wrong if it pays them at higher rates. They come from beyond the ocean, and expose themselves to the burning rays of the sun, leaving friends and relatives, and often wives and children. They leave a civilized country, a happy life, and congenial climate for exile in a strange land. Why should they be paid inadequately? Then you see how expensive an establishment they have to keep here, not for luxury, which is not their national character, but merely for the purpose of keeping themselves alive. They also deserve higher remuneration by virtue of their attainments. You know that merit is always rewarded, as can be seen by the fact, that when natives of ordinary merit are called to serve under the Indian chiefs, they claim and get remuneration which is not less than what the Europeans get.

*Traveller*.—Has not the condition of the commercial community deteriorated?

*Syed Sahab*.—The term commercial community made use of by you is very comprehensive. For facility of argument I will split it into two sub-divisions (1) merchants, and (2) manufacturers and artisans.

I will urge that the English Government has prudently initiated into India the wise policy of free trade. It has not closed the door of the Indian Mart against any nation, nor has it confined the Indian traders to their own country. There are now merchants in your own country who spend lakhs in public and charitable purposes. Compare the present state of your village cloth merchants with their past state, and you will find that now they have grown so rich that they not only sell cloth, but also lend money and purchase estates. The same can be said of almost all classes of merchants. I will not, however, be able to reply to such silly statements, (if you raise them) as that the *garwallas* (cart-drivers) and the inn-keepers have been put to loss since the Railway lines have been opened. I will also not reply to the statement that those who had made it a profession to run as messengers, have lost their profession since the post-offices have been established. Go to a grain mart and see if business is not now brisk, when thousands of carts are engaged in carrying grain for the home and export trade. Was it brisk in "Nawabi," when the grain was either not allowed to be removed or could not be removed through the fear of dacoits or want of roads?

In "Nawabi" a man having a small income was unable to keep himself and his family neatly dressed, or to provide himself with articles suitable for domestic use. How altered is the state of things now. So cheap is every article of requirement now, that a man of ordinary means is able to live almost as comfortably as a rich man formerly. This blessing has been obtained by us only through the policy of Free Trade.

Now, taking the case of manufacturers and artisans, I have to admit that their business has deteriorated, and the reason is that, the clumsy articles which they make slowly by handicraft cannot stand competition with the pretty articles made by machinery, that are imported by foreigners. But if you allow a Free Trade policy, you cannot but have the decay of the local industries. And you yourselves allow and encourage such a state of things, as appears by the fact that, in spite of your vehement patriotism, you give the slip to your own weavers and shoemakers, and go to shops of foreign wares because in them you can get better clothes and shoes. Has the Government passed any law rendering it incumbent upon you to wear and use things made in England? No! The Government has not made any such law, but your countrymen themselves have made it a law of their society to wear and use good articles, and good articles can only be bought from outsiders. Now observe, that the Government is not as indifferent to the state of your artisans and manufacturers as you yourselves are. Although it can get better and cheaper articles from England, it has still issued orders that nothing should be imported for from England which is made in India. What can easily be done is to teach the Lucknow men not to make *chikan*, the Benares men not to make *sari*, for which there is so little demand, but to make things of which there may be actual demand. Maulvi Mahommed Husain, now assistant Director of Agriculture and Commerce, when in England, made a tour throughout several counties of Great Britain to ascertain whether anything made in India could find a sale in that country. He discovered that there are articles made in India, which if sent to England, could be sold at a considerable profit. He sent out a list of such articles and tried his best to create in his countrymen a spirit of enterprize, but he failed.

*Traveller.*—Let me hear now your views about the state of the landed proprietors.

*Syed Sahab.*—The Zemindars, big as well as small, are now much better off than they were in "Nawabi." In "Nawabi" the settlement of land revenue for a fixed period was unknown. Turn to the pages of history, and you will find that something like an attempt to make a settlement for 10 years was made for the first time by Akbar, but the scheme originated and

died with him. The revenue was assessed arbitrarily almost every year by the Dewan of the Nazim or the Chakdár. The Nazim in most cases held a division under the Ijara (farming) system. His policy, therefore was to squeeze as much money out of Zemindars as he could possibly do. The Nazims or the Chakdárs had only to tell the Dewan to be mindful of their interests. They then passed their own time in the company of the dancing girls and buffoons. The Dewanji, as the prime mover, first of all realized his nazar, which varied according to the means of the giver, and then fixed the amount of revenue which in all cases used to be exorbitant. The Zemindars, or at least 50 per cent. of them, were unable to pay it up. To save themselves from the disgrace or torture they expected to receive at the hands of the Nazim or the Chakdár, they use to conceal themselves in their *garhs* or houses which looked like fortresses. The Nazims sent forces to fight with them. In some cases they surrendered at once, while in other cases they held out till the Nazim received reinforcements from the king's regular army. The Zemindars who yielded or who were caught were exposed to various tortures. Sometimes they were confined in cells which were first filled with smoke. Sometimes they were made to stand under the rays of the sun on red hot bricks. Similar means of putting them to disgrace and trouble were devised by the Chakdárs. Such was the treatment which they received at the hands of those who held sway over them. They had no access to the King or could have applied for redress. The weaker had to yield to the stronger. There was no redress for wrongs, and so the value of landed property was very small.

But the state of things has altered since the English Government has taken possession of India. The Zemindars are now considered to be men of position and respectability. The Government has made a settlement of revenue with them, permanently in some places, and in others for terms of not less than 30 years. The assessment has been made on the gross rental shown in papers prepared by the Zemindars' own Patwaries. It remits or suspends the payment of revenue in cases of drought, hail, storm and similar calamities.

Under the just and impartial rule of the English, bloodshed has ceased. The Government has made laws, and opened Courts to administer it. Such Courts equitably settle the disputes between Zemindars themselves and between them and their tenants. In their turn the Court officials themselves are restrained by law, so that they cannot oppress the people with impunity. Those who have seen the Zemindars under the past as well as under the present Government, know that as compared with the former time, the Zemindars now look like princes. Another proof of their being in a better state

is to be found in the fact that the value of the land is now 15 times higher than it was under native rule. Further, the Government has raised the social position of the big Zemindars by making special laws for them, and also by investing many of them with Magisterial powers. It regards their welfare with such fostering care, that it does not desert them when they bring disasters upon themselves by their own folly. An illustration of this can be found in the fact, that when they incur debts through extravagance and their estates are in danger of being sold, the Government rescues them from ruin by putting the estate under the management of its own officers, and by gradually paying off the debts. Some people say that the Government has curtailed the proprietary right of Zemindars by giving a sort of permanency of tenure to the cultivators. But the tenants must have some protection from arbitrary ejection, in order that they may devote their attention and skill to the enrichment and improvement of the lands comprised in their holding, and it is to the Zemindars' own interest if by improvements the yield of the land is increased. Further, the prosperity of an estate depends on its tenants being in a state of peace and contentment, and this state cannot be secured unless the tenants are given some sort of fixity of tenure.

You are also misinformed as to the way in which the Government treats the natives. You have either shut your eyes, and do not see what is actually the state of things, or you have made it a point to speak ill of the Government with or without reason. My personal conviction is that the present Government is more just, merciful, vigilant and careful than any Governments that have preceded it in India, and so far as my information goes, I know that the same is the conviction of numbers of my countrymen, both Musulmans and Hindus. I will now describe some of the advantages bestowed upon us by our kind Government: To enhance the value of these advantages, I should have first shown the state of misery through which India passed under the mismanagement of Hindu and Mahommedan rulers, but as they are well-known to every man who has read any history, I will not lengthen my speech by recounting them. Now, judge how many new institutions have been opened or established by the present Government for bettering our state. We have colleges and schools in large cities, towns and villages. Our children receive education in them for nothing, or they pay insignificant amounts in the shape of fees. The teachers are bound to treat pupils as if they were their own children. At every central station and in other parts of the district, we have dispensaries where we can get medicines free of cost. The Vaccination

Department is another blessing for the young generation of our country. The Post offices, Railways, and Telegraph contribute to add to our convenience. When the country is visited by plague or famine, the Government does all in its power to alleviate the distress of its subjects. The Government has constructed numberless roads and streets, which have been shaded by avenues of trees. It has almost rooted out the dacoits and thugs, and has rendered our lives and property secure from plunder. It has cleared the jungles which were the haunts of wild beasts that preyed upon mankind. You are wrong in saying that your cries are not listened to. The Government has given liberty to your press simply to enable its officers to become acquainted by that means with your grievances and complaints. You misuse the privilege thus given to you, but the Government is so lenient that it does not deprive you of it. The doors of the Courts, established by the Government all over the country, are open to people of all ranks and positions. And although you are not qualified for it, the Government has given you a right to give your free opinion on the laws and acts that it makes or enacts for you. It has given you liberty to such an extent, that it has given you a right to sue the Sovereign, if by the act of Government officials your civil rights are transgressed. What else do you want of Government?

*Traveller.*—We, the Congress people, urge that our country has been ruined by the present form of Government, and that therefore we must unite and agitate to get the form of Government altered. You have shown me that the country has not been ruined, and in so doing you have upset the very foundation upon which the fabric of the Congress is built. Still, I would ask you to consider whether some of the reforms advocated by the Congress ought not to be adopted.

*Syed Saheb.*—If my arguments have found favour with you, I should say that it is due to the fact that I have two advantages over you, namely, age and moderation of views. I have seen more of the world than you, and have witnessed the variety of phases through which the country has passed during the period of the last 60 years; and as a young man I could never have believed that the country would ever attain to the peace, wealth, and prosperity which it now enjoys. It appears that nature has so arranged matters that each succeeding phase has features that are more attractive and charming than those possessed by its predecessor. Let our discussion take the following form:—"What is the National Congress? What are its aims and objects and the method of its working? Whether and will its endeavours better the state of the country?"

*Traveller.*—Very well, I will commence. The National Congress is so called because it does not represent the interests of any one particular religion or race, but of the whole population of India generally, and because it is composed of men of every creed and caste.

*Syed Sahib*—Excuse me, but I object to the very name of your assembly. You call it national, which apparently means that it represents all the classes, castes, and creeds of which the population of India is made up. The truth is that the population of India is divided into scores of sections, each section professing a different religion, and having diverse social and domestic customs and rites. Such customs, and the observances of such rites, have widened the gulf between the different sections to such an extent, that the same will probably never be bridged over, not even in the most distant future. Their languages are different, and their ways and manners are dissimilar. The handful of men forming your Congress cannot be called representatives of their interests, and in fact they do not accept you as their representatives. Apply any other epithet you please to the Congress, but do not bring disgrace upon the people of India by calling it National.

*Traveller.*—We are the leaders of the National party, and we represent the entire culture, and our followers the entire intelligence of the country. As our force is recruited not from this or that class, but from all classes alike, we are correct in calling it National.

*Syed.*—The term “National party” is perfectly meaningless, as there is no one nation in India, and never will be, and your assertion that you and your followers include all the culture and intelligence of the country is false. Culture is the act of cultivating the mind by the acquisition of knowledge, it matters not whether the acquisition is through the vehicle of Arabic, Persian, Sanskrit, or English. Now, you know that in almost all classes there are men who have cultivated their minds through Arabic, Persian or Sanskrit. Like you, if not better than you, they have studied history, and they read the news of the day in the papers. They know more of politics than you do, but they do not co-operate with you. As they are not represented in your Congress, you are not correct in saying that you include all culture. As for intelligence, I say without the least hesitation, that intelligence is a natural quality existing from birth. It is not the result of knowledge, but is only improved and enhanced by it. You see hundreds of B. A.’s. who are fools, and at the same time you see thousands of uneducated (in your sense of the term) merchants and others who are very intelligent. In proof of my assertion I could name many hundreds of men in my own town who have not received an English education



like you, but are still talented and wise. These men do not see things in the same light as you do, and therefore it is not right for you to say that you include all the intelligence of the population of India. These classes are not represented in your so-called National Congress, as is manifest from the list of the persons constituting it at your Madras meeting. I will not call them delegates, because they were not delegated by anybody. The assembly was mainly composed of Hindu pleaders and graduates, all of a few Hindu castes, and a few benighted Mahomedans. The most correct name for your assembly would be, "A knot of discontented English-knowing agitators."

*Traveller.*—Call it by any name you like, but as the intrinsic value of everything is known by its utility, let us first see the aims and objects of the Congress, and then pass an opinion as to its utility, or otherwise. The objects of the Congress are threefold :—

*1st.*—The fusion into one National whole of all the different classes, creeds and castes that constitute the population of India.

*Syed Sahib.*—In a liberal point of view, the object is very noble. Hitherto, all the elements of the Indian population have had discords and disputes with one another. To bring about a reconciliation between them is an effort in the right direction. But whether the effort will be crowned with success is a question very difficult to answer. My opinion is that the effort will prove fruitless if it is actually made. The population of India is mainly divided into two parts, *viz.*, Hindus and Mahomedans. These two parts can never be cemented together; in the first place, because religiously they stand as far asunder as the poles, and secondly, because the feelings of the one can never be sympathetic towards the other. The Hindus hate the Mahomedans to such an extent, that strict Hindus never allow a Moslem to touch their clothes, much less their bodies. Their food gets impure the moment a Mahomedan happens by accident to go within the limits of the square which they draw on plain ground, and within which they sit and take their meals. Let a poor Mahomedan be dying of hunger or thirst, they will not give their utensils to him, so that he may take food or water. Their ill-treatment of Musulmans has increased tenfold since the latter have lost their empire. They now do things not absolutely required by their religion, simply to insult the Mahomedans; as an instance of this, I will mention the Ram Lila Mela, which, though not strictly enjoined to be observed, has been held by Hindus during the last three years with unnecessary pomp and *éclat*, just because it coincided with the time of the Mohurram. The Salem riots, when the Hindus made an attempt to utterly

extirpate the Mahomedans of that place, must still be fresh in the memory of the people. English education has only served to make the Hindus more inimical to the Musalmans. They have formed *samajes* and societies, sworn to keep all appointments and good things among themselves, and not to let the Mahomedans have a share. They press the Mahomedans to leave off cow-killing and give up beef-eating, though the Mahomedans find it cheap, palatable, and wholesome. They move heaven and earth to get a law on the subject passed by the Government, but the Government are too just to pass such a law. Then they love to raise temples in the vicinity of mosques, wherever possible, and having done so, blow the horn or sound the shell just when the Mahomedans congregate to pray. The Mahomedans in their turn are either helpless and unable to make a stand against the Hindus, or they are too afraid of the law to return evil for evil. It is only when they are insulted beyond bounds that they resort to the arms in which the Hindus are no match for them. Fusion between Hindus and Mahomedans was impossible, even when Mahomedans were rulers, and it was therefore the object of Hindu subjects to be conciliatory. How much more is it impossible now! Let alone the Mahomedans, the Hindus themselves are split up into numerous irreconcilable divisions. You Congress-wallas are trying to create a union by falsely persuading them that their lot is hard, and that they can better it by rising in arms against their rulers. You do not openly advise this, but it is plainly to be inferred from your seditious speeches that your object is to spread discontent throughout the country.

*Traveller.*—We do not want union in religion, but only in other matters. As to ill feeling between Hindus and Mahomedans, I think the Mahomedans are principally to blame.

*Syed Sahab.*—The Mahomedans are then wanted by you only to give strength to your movement. They will be unwise if they disregard their religious tenets and assist you in getting the upper hand, and thus jeopardising their religion. Besides, if you once achieve your ends, you will soon forget the Mahomedans and secure all the fishes and loaves for the people of your own religion.

*Traveller.*—The second object of the Congress is the gradual regeneration of the Indians along all lines, mental, moral, social, and political.

*Syed Sahab.*—Regeneration? Along all lines! But the social evils and cancers, which disfigure your society, are not so much as mentioned by your speakers. Hindu society is more indebted to one man, Mr. Malabari of Bombay, than to

the whole of your Congress-wallas. You call your agitation constitutional, but you are trying to produce a revolution. If you had any other ruler than the English, you would be executed, or at least clapped into prison. You cannot deny that you are working up the minds of the people to rise against the Government. If you deny it, I will prove it from your pamphlets.

(1.) In your Tamil Catechism you call the Councils mere shams.

(2.) In the same book you tell the people that they are not governed properly by the Governor-General and the Governors. They are to unite and bring pressure to bear on the Government until it gives more power into their hands.

(3.) In the seditious pamphlet of conversation between Farid-ud-din and Ram Baksh, the Queen is compared to Raja Harbans Rai, and it is said that she never comes to see us or cares anything about us, but leaves everything to her officers, who are held up to execration as cruel, obstinate, unjust and dishonest.

(4.) India is compared with Kambakhtpur (an ill-starred place), and its Government being despotic, is said to be the worst in the world.

(5.) The Government, being termed despotic, is shown to be cruel and merciless: callous to the good of the country, and always eager to squeeze more and more out of the people, until they are only skin and bone.

(6.) Government officers are painted in very gross colours, and it is said that the Government does not try to employ good men.

(7.) It is said that as the rulers govern badly, they are ruining the people and the villages. Further on it is alleged that despotism long continued, entails much suffering, and that India is suffering many evils from despotism.

Imagine for a moment the result of such expressions! They are calculated to create discontent and revolt, and this is plainly the intention of those who use them. The people of Bombay, Madras, and Bengal are not warlike; but if the warlike races of the North-West Provinces, Oude, and the Punjab are deceived into the false belief of securing a better state, they may rise in a body to demand what the Government cannot give to them.

In conclusion, I tell you that India will improve in prosperity, not by every man becoming a politician, but by united efforts to suppress the bad customs that are rife in every society; and above all, by the pursuit of independent professions, and not by a blind reliance upon the Government for appointments.

*Traveller.*—But we never advise the people to raise a mutiny.

*Syed Saheb*—Yes, you do, though you may not say so in plain words, because you are afraid of certain sections of the Indian Penal Code. But whatever you say by implication is much more effective and to the point: To tell a man in plain words to go and cut the head of a third person is the same thing as to put a sword in his hand, and indicate to him by signs or hints that it would not be a bad thing to sever the head of the intended victim.

*Travellers*—Let me pass to the third object of the Congress. It is to consolidate the union between England and India.

*Syed Saheb*.—Nonsense: you might more reasonably say that the object is to disunite England and India. Your third object is a bush, behind which you conceal the venom which you spread through your first and second objects. Your plain object is to make people suspicious of the English, to collect them in the battlefield and see them fighting with their rulers. Your intentions are to suffer the Government to continue, only if it gives over the management of the empire into your own hands, and watches your doings from a distance. Is this the way in which you repay the Government for the kindness with which it has given you education and the blessings of peace and civilisation?

*Traveller.*—I must maintain that we are loyal.

Now, I will mention some of the resolutions passed at our last meeting. The most important of them is that the Councils must be expanded and reformed.

*Syed Saheb*.—The Mahomedans in defence of their own religious and secular rights will object to this system of so-called representative Councils. Their number is so small, and they are so backward in education, that they will always be outvoted by the Hindus. The Hindu members sitting in Council will do all they can to further the cause of their own co-religionists.

What sanction have educated Hindus for doing right? They have no religion, and fear no God; and for this reason they have no morality whatever. You are at least two centuries behind a people like the English. We are thoroughly satisfied with the laws already made. The Government has extended your rights in Municipal matters, and you have only made an utter confusion of everything wherever municipalities have not been presided over by Government servants. Insanitation flourishes, and roads have deteriorated. Of this there can be no doubt. Influential Babus commit offences against the Municipal laws, but the native Chairmen are so afraid of making enemies, or losing their popularity, that they dare not prosecute them. If they venture to prosecute, they have civil suits brought against them, where no such suits would

be brought against a Magistrate, as the action of the Magistrate is known to be impartial, and therefore acquiesced in. The concessions which the Government has already granted to us are unparalleled in the history of the country. Congress-wallas allege, that the English, being foreigners, are ignorant of our customs and wants. This is not so. They have an intimate knowledge of our country. They have written books about the castes and nationalities of India, from which you educated gentlemen may well take lessons. The time will never come in India for representative Government.

*Traveller.*—Another of our requests is that the Budget may be placed before us for discussion before it is sanctioned.

*Syed Saheb.*—That, indeed, would be preposterous ! What do you understand about budgets ? Your most educated men are children compared with high European officials. You overrate your education and intelligence. But there is no law to prevent anyone from expressing his views on taxation and Government. Should the Hindus produce writers like Adam Smith and Mill, the Government will no doubt listen to them and consider their proposals. There is no country in the world where more opportunities are given for the full and free discussion of measures before the Council. Opinions of all classes are freely invited.

*Traveller.*—The other demand that we make is, that the Government should repeal the Arms Act, and allow everybody to possess and wear arms without taking licenses.

*Syed Saheb.*—This request is a mere trick, and springs from your disloyal intentions. The wearing of arms is the mark of a savage country. You do not see people wearing and carrying arms in European countries. You are jealous that Europeans in India have the privilege. This is mere sentiment. Are members of the ruling race not to retain one single privilege ? Anyone, who is not a budmash, can get a pass for a gun on payment of four annas. If licenses were not required, arms would get into the hands of bad characters, and surely you do not advocate this. There are so many guns in the county, that even harmless birds are being ruthlessly exterminated. What other Government in the world would allow a man to have a gun for four annas ?

In conclusion, the laws are fair, just, and suitable ; taxation is very light ; the land revenue in your country is permanently settled ; everywhere the tenancy are assured fair rents, some fixity of tenure, and freedom from arbitrary ejectment. Courts, Civil, Criminal, and Revenue are numerous, and are easily accessible to all ; your persons and property are quite secure—even more secure than in some European countries. Prisoners in

jails are now being treated almost like patients in hospitals. Many probably get better and more certain meals than when they are out of jail, and they are treated with clemency and humanity. Owing to the multiplicity of registration offices, title is more secure, and forgery has been made more difficult. There are Charitable Dispensaries in every town, and small-pox has yielded to the extension of vaccination. The English want to give you perfect drainage, good drinking water, and other sanitary improvements; and you well know that you yourselves place the chief obstacles in the way. But for native obstruction, malarial fever would long ago have been rendered less obnoxious. As to education, what am I to say? For that has brought about these evils. Other countries are asking for free education, but you have already got it. As to the native press, you know that such gross license would not be tolerated by any other Government in the world, whether Western or Oriental. Then communications are getting better everywhere, and new railways are being made. You can write to your friends in distant countries for two pice. It would be impossible to enumerate completely all the benefits that the English have conferred on your country. Then why do you cry for such imaginary benefits as expansion of Legislative Councils, free fire-arms, volunteering, &c.

*Traveller.*—Syed Saheb, your eloquence and arguments have convinced me. So long I have been walking in the dark. Now my eyes have been opened.

*Syed Sahib.*—Praised be Allah! He only is great.

A MAHOMEDAN.

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## ART. XIII.—EARLY BRITISH ADMINISTRATION IN INDIA.

*A Sketch of the Administration of the Hooghly District from 1795 to 1845.* By George Toynbee, Magistrate and Collector of Hooghly; Calcutta: Bengal Secretariat Press, 1888.

WE briefly noticed this book in our January number, and promised a further review. We shall pass over the history of the early English, Portuguese, Dutch, French, and Danish Settlements, and confine ourselves to the account of the administration, particularly noticing any information which may be of interest to the administration of to-day. A perusal of these chronicles should suffice to cure the most inveterate *laudator temporis acti* of a tendency to bewail the "halcyon past." Those who are attached to anything that has an "ancient and fish-like smell" will be shaken in their belief in the "good old days."

### *Criminal Administration.*

The criminal administration first demands notice. Mr. Secretary Dowdeswell, writing in 1809, bears the following testimony to the state of the Hooghly District in that year:—"Were I to enumerate only a thousandth part of the atrocities of the dacoits, and of the consequent sufferings of the people, and were I to soften that recital in every mode which language would permit, I should still despair of obtaining credit. Robbery, and even murder itself, are not the worst features in this hideous and disgusting picture. An expedient of common occurrence with the dacoits, merely to induce a confession of property supposed to be concealed, is to burn the proprietor with straw or torches until he discloses the property or perishes in the flames. Volumes might be filled with the recital of the atrocities of the dacoits, every line of which would make the blood run cold with horror. These enormities, be it remembered, are still committed with impunity in the immediate vicinity of the capital of British India." In 1814 we find the Judges of the Court of Circuit bewailing the great prevalence of false cases, which they include under the head of conspiracy. Affrays were not apparently very common. Although the zemindars kept large bodies of *lattials*, they used them chiefly as *nugdis* for collecting rents, and they had to register them in the Magistrate's office under Regulation V. of 1812. The indigo-planters are spoken of as a peaceable and well-disposed class.

Highway robbery seems to have been common, as we are told by the Magistrate in 1837 that the Tribeni to Guptipara road and the river route to Moorshedabad were regarded as dangerous in the extreme, and that the former could only be travelled by day and in parties of seven or eight. "It is curious," says Mr. Toynbee, "when viewed by the light of more recent experience, to find the Magistrate recommending the trial of dacoits by jury as the best means of stopping dacoity. His argument hardly appeals either to our modern notions of justice or to our experience of the actual results of trial by jury. He says that the evidence in such cases is often so deficient and contradictory that, although he may believe the accused to be guilty, a Judge sitting alone will not take upon his conscience the heavy responsibility of convicting, but he thinks that *the jury as a body would willingly do so.*" The italics are ours, and we cannot agree with Mr. Toynbee in considering the Magistrate's recommendation curious. Nor does Mr. Toynbee appear to be correct in stating that the Magistrate's argument is not in accord with the actual results of trial by jury. Mr. Beighton has shown in his article on Trial by Jury \* that juries are unwilling to convict of homicide, but very prone to convict of theft, robbery and especially dacoity. Dacoity is a species of crime of which the jurors themselves may at any time be the victims, and hence their sympathy for the victims. It is well known that dacoits used not always to confine themselves to robbery: they would sometimes perpetrate an even graver offence against the female inmates of the house, and this phase of dacoity is said to be very common now among the young bloods of Burmah.

In a letter written in 1836, there are some interesting particulars of convictions for "contempt of court," which seems to have covered all offences not otherwise provided for. Among others are mentioned the following contempts:—

- (1.) Cutting a tree on a public road.
- (2.) (Mohurir) neglecting to send a return which had been called for.
- (3.) Throwing filth near the gate of the Cutcherry.
- (4.) Not giving assistance to troops on the march.
- (5.) Being drunk and disorderly at night.
- (6.) (Jail burkandaz,) allowing prisoners at work on the road to buy food.

The practice of Suttee was abolished by Lord William Bentinck in 1829 by Regulation XVII. of that year. The records show that, between the years 1815 and 1829, no fewer than 1398 widows sacrificed themselves on the funeral pile in the

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\* Calcutta Review, No. CLXXI. for 1888.



Hooghly district alone. Probably many more cases were not reported. From 1830 onwards, there are constant reports regarding the prevention of Suttee. These reports are to the following effect :—" I (the Darogah) effectually and without disturbance restrained the woman from her purpose and gave her into the charge of the Gomastah and Mundul. For two days she refused food and declared she would die by starvation. Her resolution failed her on the third day, and she has since been perfectly contented."

### *The Police.*

Under the Mahomedan Government the zemindar was entrusted with the duty of keeping the peace within his zemindari. On our assumption of the Dewani in 1765, it was found that the zemindari organisation had fallen into a state of complete disruption and decay. Regulation XII. of 1793 withdrew the powers and responsibilities (except in the way of affording information and assistance) of the zemindar, and vested them in the police darogahs and in the burkandazes and village police under them. The darogahs were allowed Rs. 10 for every dacoit convicted through their exertions, and 10 per cent. on the value of the stolen property recovered if the thief was apprehended. This arrangement continued until 1807, when owing to the continued prevalence of dacoity or gang-robbery, Lord Cornwallis, by Regulation, XII. of that year, introduced the system of appointing zemindars, tehsildars, and farmers as police *ameens* or assistants to the darogahs, and with concurrent jurisdiction. The principle of thus recognizing local influence, knowledge, and responsibility was no doubt a good one, but in *practice*, owing to the complete disorganisation of the land revenue system by the sale and resumption laws, it was found unworkable. Owing to the success of the special deputation of Mr. Blacquiere to Hooghly and the surrounding districts, with a view of breaking up the gangs of dacoits by means of *goindahs* or informers, the office of Superintendent of Police was created by Regulation IX. of 1808. This office was abolished by Regulation I. of 1829, the duties being made over to the Commissioners of Revenue and Circuit, but was soon afterwards revived under a new name—that of Dacoity Commissioner. Against the system of employing *goindahs* (spies), Mr. Ernst, who was Magistrate of Hooghly in 1809, entered a vigorous protest, but he was overruled. The employment as police *ameens* of zemindars and others was not found to work well, and was abolished. The police arrangements were slightly modified and consolidated by Regulation XX. of 1817, and continued to work under that law up to and beyond the year 1845.

The oppressions of the darogahs and their subordinates are still a tradition, and beside them the complaints against the police in these days pale into nothingness. They were even a greater terror to the innocent than to the guilty : Writing in 1814, the Magistrate says :—" The darogahs feel a pleasure in hearing of the commission of a dacoity. . . . They proceed to the spot on the pretext of making inquiry into the circumstances. . . . They summon every respectable inhabitant, and form fictitious tales of discovery for no other purposes than those of oppression and extortion, or in other words to ransack people's houses and to collect money from them as the price of their exemption from being sent to give testimony before the Courts." A favourite means of extortion was to arrest all the females of accused persons as accomplices, and not to release them unless a confession was made or a bribe given. In 1837 the Magistrate had to dismiss 13 out of 18 darogahs ! These were the " good old days " ! As compared with those times, the " Konishtabol " of 1889 is an angel ; his fangs have been extracted by education and good Government. The Singhs, Rams, Pandays, Dubais, Tewaries and Upadhyas, hailing from Chupra, Ballea, Goruckpore, and other parts of Behar and the North-Western Provinces, no longer find it such an easy matter to intimidate, oppress, or extort money out of the Bengali ryot or shop-keeper.

#### *The law's delay.*

The delay in the disposal of cases must have amounted in numerous instances to a denial of justice. In 1841 a correspondent mentions in the columns of the *Englishman*, that he came across two parties offering up devotions to the sacred Gunga " I therefore came up to the parties, and on asking the reason, learnt that he was the complainant engaged in devotions and rejoicings, not for obtaining his case, as may be naturally supposed, but because he had just got himself free after a troublesome attendance before the Magistrate's Court for the period of *eleven months* with his witnesses, and was on the point of going homeward to join his business, which had suffered most materially from his long absence. The other party stated that they were the defendants, and although each of them was fined a few rupees, were not sorry on that account ; but that they had at last been released, after a vexations attendance on the Magistrate with their respective witnesses for eight months, and would now be able to proceed to their home and join their business."

#### *The Village Watch.*

The village policemen appear to have been the principal thieves. Mr. Brooke, Magistrate of Hooghly in 1799, writes,

"Long experience of the character of the village *paiks* show that they are themselves the robbers, and that no robbery can be committed without their collusion or connivance." In his Report on crime in the Hooghly district in 1814, Mr. Brodie says: "the greater number of robberies and dacoities are committed by the village watchmen, who select houses from which the males are absent. Instead of being a safeguard to the people, the village police are the chief source of their molestation; yet upon the fidelity and vigilance of this class of people the prevention of crime rests. They are not looked upon by the zemindars as watchmen, but as public servants, subject to the call of everyone to show the road, convey messages or to carry burdens. No nightly watch is kept up by them, and few robberies occur in this district unless actively aided or secretly abetted by them. They are of the lowest rank, drunken in their habits, squalid and horrid in their appearance." During his tour, Mr Brodie arrested 100 of these officers, and confined 30 or 40 of them for bad livelihood. After reading such descriptions, we should feel more satisfied with the "*punchaity*" chowkidars of to-day. It was the practice of many Magistrates regularly to flog the chowkidars when they were unable to discover the perpetrators of thefts in their villages. A circular of the Nizamut Adalut, issued in 1828, desires Magistrates to refrain *as much as possible* from this form of punishment on chowkidars.

In 1836 Mr. Samuells proposed certain remedies for improving the village police:—

- (1.) To remove altogether the influence and interference of the zemindars, and their right of nomination;
- (2.) Chokeedars to be nominated by darogahs in consultation with the villagers concerned, and to be appointed by the Magistrate;
- (3.) To wear a distinctive dress or uniform;
- (4.) To attend frequent parade inspections;
- (5.)—To hold not less than 12 bigahs of land each;
- (6.)—The pay of salaried chokidars to be collected by a Panchayat.

It will be seen that this officer's views were far in advance of those of his time. He issued orders that none of the chokidars should work for the zemindars, but this order had to be withdrawn as regards the *malsaran-jāmi paiks*, as they fell under Section 41, Regulation VIII. of 1793. A similar order was issued a few years later in 1840, but the late Babu Joykissen Mookerjee carried the matter to the Privy Council, and got the order cancelled.

*Jail Management.*

Up to the year 1835, jail prisoners received a daily allowance in money, and purchased their own supplies from the jail *moodee* (provision-supplier). Up to 1795 they were not allowed to smoke, but that restriction was then withdrawn as being prejudicial to their health, and they were allowed to purchase tobacco if they chose. In 1805 each prisoner's allowance was fixed at 3 pice, or three puns of cowries. Owing to the change in the currency, 3 puns of cowries had become in 1831 equivalent to only one pice, and the allowance was therefore fixed at  $\frac{5}{8}$ ths of an anna, which the Magistrate said was fully equal to all the wants even of the prisoners working on the roads. Here is the daily ration of a prisoner:—

				Annas Gundas Cowries.		
$\frac{3}{4}$ Seer rice	...	...	...	1	14	0
$\frac{1}{2}$ Pao dhāt	...	..	...	0	10	0
$\frac{1}{2}$ Chittack ghee	...	...	...	0	10	0
Do. salt	...	...	...	0	10	0
Vegetables	...	...	...	0	10	0
Fire-wood	..	...	...	0	20	0
5 or 6 chillams of tobacco	.	...	...	0	0	10
Leaves for plates	...	..	...	0	0	10

Some very barbarous punishments were inflicted; they formed part and parcel of the Mahomedan law, by which Magistrates and Judges were then guided. Life-convicts were branded on the forehead by the process known as *godena*, with their name, crime, date of sentence and name of sentencing Court. Whipping was inflicted from 1794 to 1796 with the "cat," but the "korah" (whip) was again resorted to in the latter year, until it gave place to the cane or rattan. Whipping seems to have been a common punishment, and in 1797 we find the Judges of the Nizamat Adalat commending for general adoption, an invention of the Magistrate of Dacca, namely, "a jacket of strong hide, so formed and fitted as to cover and defend from injury the whole of the forepart of the body and the neck and loins behind, leaving exposed only that part of the back and shoulders on which the stripes ought to fall." The corpses of prisoners who had been hanged were after death exposed to public view, and no one was allowed to remove them. Up to 1810 the execution was carried out at head-quarters, but in 1810 the criminal was executed at the spot where the murder or dacoity had taken place. Another curious form of punishment was that of "tashir" (public exposure.) On the 25th October 1797, the Magistrate of Nuddea writes to the Magistrate of Hooghly:—"The Court of Circuit having sentenced certain culprits to be *mounted on asses*, and there being no animals of *exactly that species* to be found in Kristonugger, I request that you will cause the bearer to be

assisted in procuring a couple in the vicinity of Hooghly, where, I understand they are to be found in plenty. I am not altogether clear how far I should be warranted in mounting them on a mule, which I could procure here, but which from his excessive waywardness, might probably inflict a more severe punishment than is intended by the Court of Circuit."

This punishment, and that of branding were abolished by Act II. of 1849. The practice of gibbeting was discontinued in 1833. All prisoners sentenced to labour were, unless found too old, weak, or diseased, employed in gangs on the public roads.

#### *Land Revenue matters.*

The operation of the sale laws in the Hooghly district between 1795 and 1845 was far more harsh than it is at the present time. The zemindars did not then enjoy the modern facilities of paying their revenue by remittance transfer receipts, or revenue money-orders. Every petty landlord, who could not afford to keep an agent at the sudder station, had at *kist* time to make a long journey in person. Again, the revenue could only be paid into the treasury of the district in which the estate was actually situated. It gradually however dawned on the revenue authorities that the sale of estates for very small balances was a severe measure, which often defeated its own object. Consequently, in 1829, the Commissioner gave the Collector full discretion to sell or not, as he thought fit.

It is a noteworthy fact that no *remission* of revenue was ever allowed in the Hooghly district up to the year 1845, in spite of the heavy losses by flood in most of the pergunnahs. *Suspensions* were often asked for and granted, but *remissions* were never granted.

Rent-free tenures seem to be very numerous in the Hooghly district. The Collector in 1836 submitted a list which showed in the Burdwan Raj alone 27,722 such tenures had been granted, containing an aggregate area of 801,922 bigahs. The road-cess returns of the Hooghly district show that 69,718 such tenures, with an area of 496,706 bigahs have been assessed with road-cess. The estimated number in 1878 of those which had still escaped assessment was 75,282, with an area of 149,872 bigahs.

An interesting bit of information is the Collector's salary bill for December 1827, made up of the following items:—

				Rs.
Salary as Collector of Land Revenue	...	...	...	1,500
Abkari Commission	...	...	...	237
Stamp	...	...	...	362
Tolls	...	...	...	72
Salary as Collector of Customs	...	...	...	250

Total 2,421

This payment by commission must have acted as a spur to lazy officers to look after the revenue. The Collector subsequently received a percentage also on the value of revenue-free lands resumed and brought on the *towjih*. The Assistant Collector's salary was Rs. 200 +  $\frac{1}{8}$ ths. of excise or stamp commission (if doing work in those departments) and Rs. 5 for every 1,000 stamped papers signed and authenticated by him !

### *The Excise Revenue.*

By Regulations II and XXVII of 1793, legal provision was made for the collection of the excise revenue by the Collectors on behalf of Government. Previous to that year, Lord Cornwallis' Regulation of 19th April 1790 had prohibited the manufacture of liquor without a license, and a Regulation of 14th January 1791 had provided for the granting of such licenses to distillers and to vendors. The excise system of 1793 was the outstill system, with a daily tax of Re. 1-4, 12 annas, or 6 annas, according to the site of the shop. That there was a good deal of excessive drinking at the beginning of the century is proved from many sources, and particularly the Fifth Report of the House of Commons. It is not to be wondered at that drinking should always have prevailed in a country where the materials for distillation are so cheap and lie so ready to hand. In 1816-17, the net revenue from excise in the districts of Burdwan and Hooghly was Rs. 1,04,419, while the revenue from stamps was Rs. 1,13,047. In 1828, the Collector, reviewing the excise administration of Hooghly for the previous ten years, remarks that the greater the number of shops, the less the revenue seems to have been; that the amount of arrear collections was appalling, and that the opium revenue was much interfered with by smuggling in French Chandernagore. The price there was 5 to 7 tolas, as against 3 tolas per rupee in English territory. The average price now in most districts of Bengal is two tolas per rupee. If the price rises above 8 annas a tola, it presses somewhat hardly on *bonâ fide* consumers. Considering that opium taken in moderate doses is considered to be beneficial, that it is an important ingredient in the British Pharmacopœia, that it is to invalids in India what brandy is in England, and lastly, considering that the price of a pernicious drug like ganja is actually less than that of opium (in some districts it is only four annas a tola), any measures tending to enhance the price of opium are probably to be deprecated.

### *Miscellaneous Revenues.*

On the acquisition of the Dewani by the East India Company in 1765, the inland salt trade (with betelnut and tobacco)

was vested in an exclusive Company for the benefit of their European servants, who enjoyed the profits of the concern in lieu of salary.

The first complaint as regards the damage done by cattle-trespass was made in June 1795 by Mr R. Chapman, an indigo-planter at Chuttergunj, in the thana of Chandraconna. He complains very bitterly of the damage done to his indigo "weed" by stray cattle, and asks that the darogah of the above thana may be authorized to seize such cattle, sell them, and from the proceeds recoup him the amount of damage done. These complaints were constantly repeated by the European planters and zemindars of the district up to 1830, when Regulation V. of that year was passed, but for the protection of indigo only. A pound was in the same year established in Chinsurah at the request of the military authorities, and was managed by the two European constables stationed there. In 1834, the serious damage done not only to indigo, but also to the rice and other crops of the cultivators generally, attracted the attention of the Judges of the Nizamut Adalat, and they prepared the draft of a Regulation on the subject, which followed very closely the lines of subsequent legislation. In the same year the police were ordered to seize, bring to the thana, and levy fines on all cattle caught in the act of trespassing on the Government embankments, the Superintendent of which had repeatedly represented in strong language the damage done to them by the cattle of the villagers. The pound receipts in 1836 and 1837 average Rs. 635, in 1886-87 they amounted to Rs. 8,037.

In 1828 there were only four public ferries: in 1840 the number had increased to ten. The following comparative table of the rates of toll in force at Fultah and Pursurah ferries is interesting:—

				1833.	1883.		
					Rs.	As.	P.
Passenger	...	..		10 gundas	0	1	0
Do. with load	...	...		1 pun	0	1	6
Sheep and goats, each	...	..		10 gundas	0	0	3
Cattle	...	...		2 annas	0	0	6
Do. loaded	...	...		3 "	0	1	0
Horses	...	...		6 "	0	6	0
Pony	...	...		2 "	0	3	3
Elephant	...	...	Rs. 3	"	1	8	0
Camel	...	...		12 annas	0	6	0
Palki and bearer	...	...		8 "	0	8	0
Carriage and pair	...	...	" 1	8	3	0	0
Buggy and horse	...	...	" 1	0	1	0	0

The rates at the other ferries were only half the above rates. It is surprising that the charge for cattle should have been four times as much 50 years ago as it is now. Complaints

of delay, extortion and overcharge were very numerous, and the farmers and burkandazes appear to have done pretty much as they liked. The farmers of the present day are not much improvement on their predecessors.

### *Post Office and Telegraphs.*

The earliest notice Mr. Toynbee could find of the postal arrangements of the district is in 1819, when the Magistrate reports that the provisions of Section 10, Regulation XX. of 1817, the parent of the present Zemindary Dâk Act and system, were not required in Hooghly, "as there is a sufficient number of paiks." The carriage of letters between Collectors, Commercial Residents, Excise and Salt Officers and Munsifs was specially provided for in various Regulations between 1793 and 1817. In 1818 a project was set on foot for an experimental Semaphore telegraph system between Calcutta and Chunar, with an extension thence to Benares. The Collector was ordered to acquire land for the sites of the towers and for making bricks, and the Magistrate to give the help of the police in procuring supplies, &c. Mr. Toynbee mentions that he was never able to discover the real object of the building of these towers until he came on the old correspondence regarding them.

### *Prices and Wages.*

From 1793 to 1813, the average prices per maund of the following grains were as follows:—rice, Rs. 1-5-6, dâl Re. 0-15-6, gram Re. 0-14-6, wheat Re. 0-13-9, and mustard seed Re. 1-15-3. In 1809 the prisoners in the jail could feed themselves on an allowance of 2 pun and 10 gundas of cowries daily, and the diet-money allowed by the Courts to "indigent prosecutors and witnesses" was only one anna. The origin of the *niriklu-nâma*, or fixed price-list, the tradition of which still survives, was probably the order of the Governor-General in Council in April 1812, that a table of the prices of the principal articles of supply should be kept at each thana. This order was issued in consequence of the numerous complaints, both on the side of the troops and of the zemindars, regarding the arrangements for the supply of *rasad* \* to the former.

In 1832 a boat of 200 maunds could be hired for Rs. 27 per mensem; of 1,000 maunds for Rs. 94. A *pansi* or row-boat for the trip from Chinsurah to Calcutta could be hired for 8 annas, 12 annas, or a rupee, according as the boat had two three, or four oars. The price of bamboos was Rs. 12-8 a

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\* Supplies of provisions, straw, &c.



maund ; of rope Rs. 5 per maund ; of *durma* mats, Re. 1 per score ; of thatching straw Rs. 8 per *Kahan* : coolies earned from 1½ to 2 annas per day.

### *Manufactures and Industries.*

During the period reviewed in Mr. Toynbee's book, the principal industries and manufactures of the district were either carried on under direct European management and supervision, or with advances made by European capital. The existence of the Company's factories and residence from the middle of the seventeenth to the first decade of the 19th century, effectually put a stop to all private enterprise and to the employment of European capital, except in indigo. In their character as traders, the East India Company and their officers were naturally jealous of all "interlopers," as they called non-official Europeans, and none could settle in the Mofussil without the special permission of the Governor-General. The principal industry to which Europeans first directed their attention was indigo, and after it to sugar and rum, chintz and canvas. In 1810 Sir William Jones founded a canvas manufactory in Howrah.

The indigo industry appears to have been introduced into the Hooghly district as early as 1780. In 1795, Regulation XXIII. of that year was passed to regulate the relations between indigo-planters, the Government and the ryots. The law was amended by Regulation VI. of 1823, and again by Act X. of 1836. Complaints used to be made to the Magistrate of "new European adventurers" cultivating indigo. The "intruding manœuvres" of these men are spoken of as being carried on "under the cloak of the Bengalees" This appears to mean that, as no European could hold land or reside in any district without the express permission of the Governor-General, these intruders had obtained lands *benamée* from certain native landholders. Interference of this kind with one another's factories and lands led to so many disputes and disorders, that the Government early in 1800 passed a rule to the effect, that no European should establish a new indigo factory in the neighbourhood of an old existing one. It remained in force till 1830, when it was rescinded, and all other restrictions not imposed or recognised by the Regulations appear also to have been removed. Indigo riots of a serious nature appear to have been few and far between, but mention is made of the hostility of the Bengalees to the industry. What is called "poaching" on another planter's "*dihat*" is now forbidden in Behar, among those who recognize the rules of the Association.

The district of Hooghly was widely celebrated for its paper manufactories. Serampore gave its name to a kind of paper

much used even at the present day, and some of the descendants of the original paper-makers still survive and follow the trade.

In 1824 certain rules were passed by Government for granting lands to Europeans for the experimental cultivation of coffee, and in 1826 Mr. Gordon and Dr. Wallich appear to have started a plantation, but Mr. Toynbee cannot say where it was or what became of it. In 1835 Chinsurah could boast of a cigar manufactory.

### *Roads and Communications.*

At the time of the assumption of the Dewani in 1765, the district of Hooghly had not a road worthy of the name. "It is true," says Mr. Toynbee, "that there were tracks, which were dignified by the name of roads, but they were, as a rule, strips of land set aside at the various settlements for the purpose of public traffic. Metalling and raising were unknown, and where there was a bridge, it was due rather to the generosity and public spirit of some wealthy individual than to the Government of our predecessors." These remarks may apply to Hooghly, but they certainly cannot be applied to some other districts, *e. g.*, Orissa, Maldah, Rajshahye, in which the Moghuls had firmly established themselves, and where the remains of their excellent roads and embankments are visible to the present day.

In 1796 the Court of Circuit called the attention of the Governor-General to the wretched state of the communications by land, and to the serious encroachments made by zemindars and cultivators on the tracks set apart as roads. Mr. Toynbee remarks: "Had this evil been guarded against, and existing tracks properly demarcated at the time of this complaint, I have no doubt that the present state of the roads would be very much better than it is, and that there would be many more than there are at the present day. Hundreds and thousands of beegahs of road-lands must have disappeared since the above letter was written, and the evil still exists, and requires constant watchfulness and a strong hand to check it." This is very true. The spirit of encroachment on Government roads and lands, both in towns and in the Mofussil, is rampant. People have interested private parties to the back of them, and on either side of them, and not being able to encroach in those directions, they are constantly trying to sneal forward, inch by inch, and steal Government land. A special Sub-Deputy Collector was recently ordered to demarcate the Grand Trunk Road, and the result of his labours was that *nearly 800 bigahs of land* were recovered on either side of the 52 miles of the Grand Trunk Road which lie within the Hooghly

district. This hunger for Sirkari earth seems to prevail everywhere, and grabbing of Government land is constantly going on. Irish land-grabbing is nothing to it. A man encroaches on a Government road, and as there is no one to guard and look after Government interests, his theft is not at once discovered. If it is discovered, and he is compelled to go back, he perhaps adds insult to injury by claiming compensation for the ill-gotten strip he has been compelled to disgorge!

In 1829, the Rajah of Burdwan gave Rs. 36,000 for the construction of a bridge on the Grand Trunk Road: and it is curious to read that, in consideration of his princely gift, he was allowed to have badges for his peons. It is evident, then, that the peons of zemindars and non-officials were not at the time allowed to wear badges, and their doing so, even at the present day, might in the Mofussil, in many instances, bring them within the provisions of Section 171 of the Indian Penal Code.\* In 1830, road-labour for convicts was beginning to fall under the disapproval of Government, and we find the Magistrate reporting that intra-mural labour would have a disastrous effect on the criminal classes, whose detection and conviction would be "rewarded by a seven or fourteen years' exemption from toil and hardship, and by transfer from a hovel to a palace." Truly there were Dracos in those days!

### *Municipal Affairs.*

The germ of Municipal Government is contained in Regulation XIII. of 1813, under the provisions of which the inhabitants of towns were enabled to make better provision for watch and ward and for the protection of their property. The above law was introduced into the town of Hooghly, which the Magistrate calls "a small straggling town," early in June 1814. Defects having come to light in the working of this Regulation, it was amended by Regulation XXII. of 1816, and this law contains the first provision for conservancy, lighting and other Municipal improvements.

In 1823 the funds derived from the levy of town-duties under Regulation X. of 1810 were granted for the improvement of towns, and the Governor-General in Council directed that they

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\* Sec. 171 is as follows:—"Whoever, not belonging to a certain class of public servants, wears any garb, or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or *with the knowledge that it is likely to be believed* that he belongs to that class of public servants, shall be punished with imprisonment of either description which may extend to three months, or with fine which may extend to two hundred rupees, or with both." Ignorant villagers in the Mofussil are unable to distinguish between one badge (*chaprās*) and another. "Chaprassie," is a man who wears a "*chaprās*" or Sirkari badge.

should be expended in "filling up hollows, stagnant pools, and useless ditches, in the construction of *pucka* drains and bridges, the opening-up and widening of the public roads, and in other minor improvements." It is significant that 66 years later, "hollows, stagnant pools and useless ditches" should be the principal defects in many Bengal Municipalities besides Hooghly.

Little more is heard of Municipal affairs until 1837, when by Regulation XV. of that year, the maximum chokidari assessment under Regulation XXII. of 1816 was raised to Rs. 2, and the principle of applying the surplus collections to improvements in the towns was expanded and re-affirmed. Two fire-engines were purchased from Calcutta in this year. In 1842 an Act was passed "to make better provision for purposes connected with the public health and convenience." This was the first purely Municipal law in Bengal. This Act could be introduced into any town at the request of two-thirds of the inhabitants. They were to choose their representatives as a committee, and a rate could be imposed on houses not exceeding 5 per cent. on their value. Mr. Toynbee does not tell us the result of this measure, as, it had not got into proper working order within the period reviewed by him.

### *Miscellaneous.*

An account is given of a cyclone in 1832, and a storm of "incredible violence" on the 21st May 1833. The Superintendent of embankments, writing from Tumlook three days after this storm, thus describes its effects:—"The Rupnarain and Damoodar rose *eight feet* above the ordinary level of the spring tides, and almost every embankment in the Hooghly Collectorate is swept away. . . . The country presents such a scene of ruin and distress that I cannot adequately describe it." Nearly a year afterwards the Salt Superintendent writes:—"There are evident signs of great distress, and want of usual extent of cultivation owing to the salt water. Sick-ness prevails to a great extent, and many have been entirely ruined." Again: "Since the occurrence of that visitation, the sickness prevailing there has been most awful; so much so, that for several months the civil and criminal business of the division was nearly at a stop. Peons could not be induced to proceed there for execution of writs. Those who did, usually returned emaciated and with impaired constitutions." A serious drought occurred in 1837, when tanks and jheels ran completely dry, and the price of food grains rose 50 per cent. in spite of importations.

As an index of increase of work, Mr. Toynbee notes that the consumption of stationery in the Collector's office was 23

reams in 1887 against an average of 7 reams during the years 1827 to 1841. As late as 1834 the Collector used to do Judicial and Revenue work at one and the same time, the depositions of witnesses being taken down by Mohurirs.

In the year 1836, Persian ceased to be the official language of the Courts, and Bengali took its place. In reporting on the proposal, the Collector spoke of the change as "one of the greatest blessings we could confer on this country." Zemindars paying Government revenue of Rs. 8,000 or upwards were to be addressed in English as "gratifying" to them, "while their being required to reply in English will bring that language more into use and afford greater encouragement to its acquirement as well as employment to those who have already studied it with success." India in 1839 is a grim comment on this sentence, as the knowledge of English is not a sure road to employment, and no encouragement is required for its study. As regards the adoption of the Bengali character, the Magistrate reports in 1837 that "the feelings of consideration for the people are duly appreciated by the great mass of the people, to whom it has given a very general satisfaction." Slavery seems to have been prevalent till about 1836. Regulation X. of 1811 prohibited the sale of slaves imported into British society, but it was held not to apply to cases of famine orphans and the like in British India. From a report made by the Magistrate in 1836, it would appear that such slavery as then existed in the Hooghly district was "entirely of a domestic character, and rarely brought to the notice of the authorities." It occurred only among the Musulmans, and "female slaves and young boy-slaves are to be found in the families of most Musulmans of any respectability."

The amount of official interference in social and domestic life seems to have been a good deal more than at the present day. In 1828 we find the Magistrate sentencing to one month's imprisonment each the baker, his assistant and the *soojerwallah* (flour-seller) for selling bad bread and flour. In 1845, a Hindu Deputy Magistrate writes to the Magistrate 'with great pain, and asks him to interfere to prevent 'the shameful' practice, and 'remove the disgraceful nuisance' of the 'most indecent bas-relief figures of wood than which badness cannot conceive worst,' on the Jaganuath cars in various parts of the district. The Commissioners who framed the Indian Penal Code were given to understand that any interference in this matter would be regarded as interference with the Hindu religion, and so we find an exception tacked on to Section 292 of the Penal Code (dealing with sale or exhibition of obscene books, paintings, &c.) which saves "any representation, sculptured, engraved, painted or otherwise represented on or in any temple, or on any

car used for the conveyance of idols, or kept or used for any religious purpose." This exception was framed nearly half a century ago. Public opinion at the present day would probably approve its repeal.

The rules on the subject of rewards for killing wild animals, issued in 1816, must, remarks Mr Toynbee, have caused some olfactory annoyance to the Collector and his *amla*. The claws and teeth of tigers, for whose destruction rewards had been paid, were kept in a box in the Collector's office. A local inquiry had to be made, and the result recorded before any reward was paid. The heads were destroyed in the Collector's presence, and the production of 'false heads' was to be strictly guarded against and punished. In 1822 the skins of leopards, tigers and buffaloes, for which rewards had been paid, were sent to Calcutta to be made into mail-bags for the Postal Department. Judging from the amount (Rs. 38,483) paid as rewards for the destruction of 5,673 animals in Bengal in the two years 1822-23 and 1823-24, there were some grounds for taking precautions against fraud.

The period reviewed by Mr. Toynbee ended some forty-five years ago, and on comparing the sketch with the administration of to-day, we may well exclaim, "Look on this picture, and on this!" There are materials in the two pictures for a new Tamil or Bengali catechism, the truth of which might go far to counteract some of the poison contained in Mr Hume's pamphlet. We feel sure that such a catechism (full of stern irrefragable facts and devoid of cowardly misrepresentation, will soon be forthcoming from the pen of some native writer, to give the lie to those who affirm that Bengali loyalty is not deed-loyalty but merely lip-loyalty.

H. A. D. PHILLIPS.

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## THE SACRIFICE OF RÁTH.

### [A TALE OF PACHMARHI.]

There was sorrow in the valley,  
Where the blue Nerbudda flows.  
Death and anguish—yet the people's  
Cry for mercy vainly rose.

For it seemed the will of heaven  
That a famine curse the land,  
And a plague before whose terror  
Not the strongest man might stand.

So, awhile they suffered weeping  
Till the sons of Agor cried :

“ Let us hasten to the mountain,  
“ Where the holy hermit died.

“ Where the sages five are dwelling,  
“ Each within his sacred cave ;  
“ Let us ask the holy prophets,  
“ How the land from death to save.”

Ráth and Heera, sons of Agor  
Ruled by wisdom and strong arm,  
Nought the brothers hearts could sever,  
Nought their trustful love might harm.

So the men and women journeyed  
To the sacred mountain high,  
And beside her father blithely  
Stepped Alita fair and shy.

Both the brave young brothers loved her,  
For no veil yet cursed the land,  
And the youth might ask the maiden  
Whom he loved to give her hand.

Sweet Alita Both the brothers  
Loved, but in the maiden's sight  
Ráth was like a brother, Heera  
Stood in love's sweet golden light.

Râth perceived the maiden's secret  
 Ere she knew it, but his grief  
 Struggling fiercely, in unselfish  
 Love for Heera found relief.

Came the people to Pachmarhi,  
 Where they found the hermits wise,  
 Rapt in death-like trance beholding,  
 Dimly far-off mysteries.

Silently they heard the voices  
 Telling of the people's woe,  
 And their forms were fixed and rigid  
 As the rocks of Mahadeo.

Long the people stood expectant,  
 Till at length the oldest sage,  
 Gaunt and dried and deeply wrinkled  
 Through long fast and mystic age,

Rose and cried " the Gods are angry  
 " For the people is profane,  
 " Sacrifice has been forgotten  
 " So they weep and call in vain.

" Man for man must die, descending  
 " Headlong from the awful height  
 " Above the gulf of Andikho,  
 " Down to black and endless night."

Pale then grew the harmless people,  
 Thinking of the dreadful leap ;  
 But they drew the lot in silence  
 For the victim of the deep.

On the noble sons of Agor  
 Fell the lot, then all men stood  
 Wondering sore which of the brothers  
 Twain should perish for their good.

Heera draws the fatal pebble,  
 Râth is saved, his glances fly  
 Swiftly to the fair Alita,  
 Oh ! the horror in her eye !

There he reads that if he perish  
 \* She will be a little sad,  
 But if Heera die, the maiden's  
 Heart will never more be glad.



Falls the night mid dance and music,  
 But a sad voice fills the cave ;  
 " Holy sages, might a brother  
 Die, his brother's life to save ? "

Answering comes a hollow echo :  
 " It is whispered from the grave  
 " That a brother freely dying  
 " Has unmeasured power to save ;

" 'Tis a mystery of the ages,  
 " Life from out of death will rise ;  
 " Light and sweetness spring from sorrow,  
 " When a good man freely dies."

O'er the blue plain, stretched like billows  
 Of the ocean far away,  
 Redly rose the sun next morning  
 As the folk at break of day.

Gathered round the awful chasm,  
 Where a man should die ere night,  
 Bravely for the sinful people,  
 Leaping from the fearful height.

Heera, Râth, and fair Alita  
 On the cliff-edge hand in hand  
 Gaze on the expectant people,  
 Nigh the dreamy sages stand.

They wait a sign ; dark clouds from heaven  
 Hide the lion of Dhup Ghur,  
 And a mighty peal of thunder  
 Rolls down Mahadeo's spur.

Then the oldest sage awaking  
 Cries aloud : " Oh, people hear,  
 " God is calling from the heaven,  
 " He to us draws very near :

" He is pleased that one is willing  
 " Out of purest love to die,  
 " So upon your land he sendeth  
 " Blessed rain-clouds from on high

" Let the sacrifice be finished."—  
 Bravely Heera turns to greet  
 For the last time fair Alita,  
 And his tears fall at her feet.

Oh ! the bitterness of parting !  
Oh ! the awful gulf below,  
The sheer unbroken precipice,  
The unknown depth of Andikho !

Sadly Râth for one short moment  
Looks upon them, then he cries :  
“ Live and love, for life is pleasant,  
Willingly your brother dies,

“ Dearest Heera and Alita,  
“ And you folk who love me well ;”  
Thus he spoke, then leaping wildly  
Down the awful steep he fell.

Swiftly grew the sky o’ershadowed,  
Fell the rain, the wind grew cold ;  
Livid lightning struck the mountain,  
Loud the awful thunder rolled.

Straight the people hurried homeward,  
Stricken with supernal dread ;  
Only Heera and Alita  
Stayed to mourn the noble dead.

And beside them stood like statues,  
Carved from out the rocky hill,  
The five sages deeply musing  
On the mystery of ill.

Little light had they, and cruel  
Was their creed ; but from above  
Shone a gleam of truth lit for them  
By Râth’s sacrifice of love.

Centuries have passed, and changes  
Come upon the Eastern lands,  
But of all the warring forces,  
Sacrifice still mightiest stands.

W. L. G.

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# THE QUARTER

## THE WEST.

### *Foreign Politics and Events.*

PROFESSOR Geffken has been released, and his prosecution abandoned. The facts in connection with this matter, and an article in a leading London Review, have somewhat smirched the fair name of Prince Bismarck. The semi-official Berlin "Post" has withdrawn the accusation that Sir Robert Morier informed Marshal Bazaine of the Prussians crossing the Moselle.

As to the prospects of war or peace, we have it from the king of Italy and the Hungarian Premier, that the present year will be one of peace. But this is not very great authority. The triumph of Boulangism and the defeat of M. Floquet on the Revision of the Constitution scheme are somewhat indicative of war. The people of Paris, however, are determined to have their Exhibition, so that peace is assured for some time at least. Armaments are still increasing. An Imperial ukase has been issued by the Emperor of Russia introducing certain reforms into the Rifle and Infantry Reserve Battalions, which involve an increase to the army of 80,000 men. Lord George Hamilton has announced in the House of Commons that Government propose to build seventy ships, comprising ten ironclads, 42 cruisers, and 18 gunboats, to be completed in 1894, and to cost, including armaments, 21½ millions sterling. Lord Wolseley, speaking of the threatening war-cloud, has advocated compulsory military service. In making this recommendation, he has egregiously missed the scope of the British bent and genius. Mr Morley has categorically said that we must have absolute supremacy at sea, quoting Mr. Cobden's remark that he was willing to spend 100 millions on the fleet, if necessary. The rats are certainly abandoning the sinking ship of the Scuttle and Peace-at-any-price School, and making for the firm land of Imperialism.

In France, Boulangism still occupies the thoughts of the people to the exclusion of almost every other topic. The majority of 81,550 votes seems to be proof positive that France is eager for a change. On Boulanger making it evident that he was

an exceptionally strong man, all the discontented elements in the country have gravitated towards him. There can be no doubt that the Radicals have made themselves very unpopular; they have been a tyrannical clique everywhere, and by their bigoted hatred of the clergy and their passion for secularism, they have offended the interests and feelings of the people. Moreover, Mr. Jacques was not a very formidable candidate to contend against.

Austria still holds together in spite of her centrifugal forces; but, in avoiding the Charybdis of Magyar predominance, it seems likely that she may strike on the Scylla of Slavdom. In Italy, Mr. Crispi has resigned the Premiership in order to avoid being defeated over the proposed new taxes which are necessitated by the budget deficit of 200 million francs. The high expenditure on the army and navy has caused much poverty, and there have been labour strikes. A feeling is growing that war would be preferable to the existing state of things. The hostility between France and Italy is increasing.

In Russia Count Tolstoi has proposed certain measures which will put an end to what little local Government there is.

The Sackville affair has died a natural death. It appears from published papers that Lord Salisbury declined to discuss Lord Sackville's offence after the action taken by the United States Government, which his Lordship said was contrary to international usage. Lord Sackville has been succeeded by Sir Julian Pauncefote, Permanent Under Secretary at the Foreign Office. America is pursuing the policy of protection with a vengeance. The Immigration Committee has submitted a sweeping Bill restricting the immigration of foreigners, and prohibiting absolutely the entrance of insanes, paupers, felons, polygamists, anarchists, socialists, lepers, &c., and proposing a tax of five dollars on every foreigner not so excluded. The American Senate has rejected the Extradition Treaty with England.

Egypt is in much the same state. The Queen's speech at the opening of Parliament says there is no ground for apprehending any renewal of the troubles near Suakim.

There is to be a Conference for the settlement of the difficulty which has arisen out of the German outrage at Samoa. America insists on Samoan autonomy. The so-called religious mission of Achinoff and a number of Cossacks to Abyssinia has ended in a fiasco. The French bombarded the settlement at Sagallo, and took Achinoff and his Cossacks to Obock. They have since been handed over to a Russian corvette. The Russian Government has disclaimed any connection with the mission.

Other important events of the quarter are the Arab rising in Uganda: the riots in China: the destructive tornado in the United States: the massacre of German missionaries, and the fighting between German troops and Arabs on the east coast of Africa: the abdication of King Milan of Servia: the suicide of the Crown Prince Rudolf of Austria-Hungary, and the Turin beauty show. The "injuria" offered to the "spreta forma" of the unsuccessful competitors at Turin resulted in a sort of fight.

### *Home Politics and Events.*

The Parnell Commission continues to be the most absorbing and sensational event. The principal witnesses have been Major Tanner, Jago, the convict Delaney and Major Le Caron. Delaney says he took an oath, the principal part of which was to assassinate the executive council in Dublin. The evidence of Major Le Caron has been of a nature to take one's breath away, and it has so driven the nail home, that the Pigot fiasco has had no effect on the broad main question. What the Attorney-General has maintained from the commencement is, not that Mr. Parnell and his supporters had actually planned the murders, but that they were intimately allied with the Irish Republican Brotherhood, availed themselves of the money and services of the Brotherhood, and knew its character. It seems that this extraordinary man Le Caron has been for 23 years the most daring of the innermost ring of the secret inner circle of Irish revolutionists, the confidant not only of Egan, Boyton, and Sheridan, but of Mr. O'Kelly and Mr. Parnell, and at the same time the trusted spy and informer of the oppressive Sassenach Government. The revolutionists admit that the Major occupied a position of great influence and importance in the councils of the Irish and American Dynamite and Assassination Associations. But Tynan, "No. 1" declares that "though the Major may have pierced the crust of the Irish national movement, he never touched the core!" If the outer crust was outrage, dynamite and murder, then what must the core be? It must be some unheard of crime, *non inter Christianos nominandum!* It has been shown that the United Brotherhood has its agents in Australia, India, Canada, Afghanistan and Africa: that there was a plot of the Invincibles to murder Earl Spencer and Mr. Foster: that Byrne and other members of the Land League were connected with the Invincibles: that Egan paid the expenses of the Dutch officers out to the Transvaal to help the Boers against the English: and much more of an equally damning character, for which a good many persons ought to hang. The Nationalist Press of Ireland and America are naturally utterly dumbfounded at the disclosures. It has been shown that the

virtuous Mr. Sexton assisted Brennan to escape on seeing the placard in the strand that Carey had given evidence implicating the latter. Added to all this, further details have been given of systematic outrages: in fact the *sape cadendo* tactics adopted by the Attorney-General and Sir Henry James have worn away the rock of unbelief. No one now ventures to maintain that there has been no complicity in outrages among the Irish Parliamentary party. •Le Caron's cool and crushing evidence has established the diabolical criminality of the Clann-Gael conspiracy, and the connection of the Parnellite Parliamentary party with that conspiracy. It is to be hoped that the Commission may now be quickly brought to a close.

It has been proposed that the next electoral Reform Bill should effect a considerable reduction in the Parliamentary representation of Ireland: but this will be superfluous, if honourable members go on getting "quadded" at the present rate. Messrs. Sheehy, Condon, Kilbride, Finucane, Edward Harrington, and the Reverend Father Stephens have been sentenced to various terms of imprisonment. Father McFadden and five others have been charged with the murder of Inspector Martin, who was killed while arresting the reverend gentleman at Greedore.

Martyrdom *à la* O'Brien bids fair to become a synonym for Sybaritism. The martyr managed to escape during his trial and was captured at Manchester. It really makes one's blood boil to read of the indignities put on this Irish *Sansculotte*. The "breeches" grievance must now hide its diminished head in the presence of the "second-class" grievance! One can hardly credit that this man, who had never travelled in anything but a third-class carriage, was actually forced into a second-class carriage by his inhuman captors! We shall hear of the prison authorities next compelling him to live on a diet of *paté de foie gras* and champagne! This revolting cruelty in the matter of the second-class carriage is but one more instance of "brutal Balfourism."

As regards the state of Ireland, Mr. Balfour was able to show at the Liberal Unionist banquet in Dublin, that "derelict" farms are everywhere being taken up, that boycotting is decreasing, savings-banks deposits enormously increasing, and trade improving.

As regards Home Rule, Mr. Chamberlain has expressed his opinion, that the question of local Government is secondary to social, economical, and agrarian questions; that if the land question be settled, probably little will be heard of the Home Rule question. He has also stated that the sole difference between the Gladstonians and the Unionists is, that the former

base Home Rule on the principle of nationality, whereas the Unionists are ready to concede Local Self-Government to its fullest extent. Referring to the Separatists, Mr. Chamberlain pointed out that it was not the policy of Home Rule that we had to resist, but the policy of universal disintegration : the Separatists seemed inclined to apply this policy to India, and if they succeeded, the peace of 250 millions of our fellow-subjects would in a few years give way to anarchy or a Moghul Empire, and a Gospel of Plunder preached by Maharatta Chieftains. Talking of India, the Gladstonian caucus have feasted Mr. Nowroji, and are endeavouring to atone to him for having thrown over his candidature by calling prominent attention to the fact that Lord Salisbury has called him a "black man." Sir Lepel Griffin has written a letter to the *Times*, shewing that Mr. Nowroji has no more claim to represent the people of India than a Polish Jew settled in White-chapel. This "black man" bone has been worried and worried by the Radicals until there is not a scrap of flesh on it. But god-send as this "black man" episode has been to the Radical press, it is thrown into the shade by the tremendous slice of luck which has fallen to the Conservatives in the shape of the "Hawarden evictions." This is indeed a fat capon which will doubtless give food to the Conservative press for some time to come. The Bengal *murghu* of the "black man" is a Barmecide feast beside it. The fact is, it is all party, party, party. Happily there are some signs, in France as well as England that Demos is becoming sick of this eternal party warfare, and, like Diogenes, is looking out for an honest man to manage his affairs properly. Natives of India will no doubt regard Mr. Gladstone as a ruthless monster, when they hear that the tenants evicted by him have—they and their ancestors—been on the land for over 200 years. Mr. William Gladstone has written to the papers to say that the rent was much in arrears, and that there has been no unnecessary harshness or severity ! But it is not alleged that abatement of the arrears was offered, and this was the sin which was laid at the doors of Lord Clanricarde and others. We may well quote the words of Mr. Tyndall : "Science, let us hope, has taught her sons in Britain a nobler lesson than the prostration of their judgment before a leader, with whose mental and moral organization the stern veracities have never mingled."

The elections for the London County Council have been fought on party lines. 'There was an understanding that this was not to be done, and on one side the honourable understanding was honourably carried out. An area, represented in the Imperial Parliament by 49 Conservatives and 13 Liberals, allows two-thirds of the places in its County Council to be

occupied by advanced Radicals. It is to be hoped that the new body will not out-Herod the moribund Board of Works.

*Miscellaneous.*

There has been an important prosecution in Manchester under the Merchandise Marks Act. As it was the first prosecution of the kind, only nominal fines were inflicted. The object of both the Indian and English Acts is not only to protect the consumer, but to protect honest traders and manufacturers from the results of unscrupulous and dishonest competition.

Jenkins, the murderer of Emily Joy at Guildford, has been found guilty and sentenced to death. There have been two other shocking murders and mutilations, one of a boy at Bradford, and the other of a girl at Yeovil ; but the murder epidemic seems to be working itself out.

Mr. Parnell has instituted an action in the Irish Courts, as his Scotch action has been dismissed. The Judges have very rightly refused to be parties to a manoeuvre, by which an Irishman seeks to sue an Englishman in a Scotch Court, on the ground that he will not get justice from an English jury.

That venerable Prelate, the Bishop of Lincoln, is being prosecuted before the Archbishop of Canterbury for ritualistic practices.

*Leviara canamus.* Mr. Izard has got a divorce from his wife, Marie Tempest ("Dorothy") with £5,000 damages against Mr. Leslie. Mr. Izard stated he had allowed his wife to go to Boulogne with Mr. Leslie and another gentleman, and he thought there was nothing wrong in it. What is more, the jury believed him! This is but one more nail in the coffin of trial by jury. In matters dramatic, mention must be made of "Macbeth" and "the Babes in the Wood," which has, of course, like each of its predecessors, eclipsed all the former pantomimes of Augustus Druriolanus. It is said that the ballets of birds, toys, packs of cards, dominoes, &c., were the best ever put on the stage. "Macbeth" has been described as a series of studies in *chiaro-oscuro*. Regarded simply as the stage-illustration and realization of a semi-supernatural poetic tragedy, it is a superb success. The scenic and mechanical devices combined with the weird strains of Sir Arthur Sullivan's music, are sufficient in themselves to "hold" the audience ; but it may be doubted whether Mr. Irving and Ellen Terry have converted the public to the acceptance of their conception of the Shakespearian characters. "Dorothy" flows on for ever ; but she has been transferred to the Lyric in more senses than one.

Among the books of the quarter may be mentioned "Gordon" in Macmillan's Men of Action series : "The Truth about Russia"



by W. T. Stead : "Reports of State Trials," New Series, vol. I., 1820-23, edited by J. Macdonell : "India " by Sir J. Strachey : and "The Recluse" by Wm. Wordsworth. The "Recluse" is the first part of the poem, of which the "Excursion " forms the second part. It seems that Wordsworth did not think it worth publication.

## INDIA AND THE EAST.

### *External events.*

The Maharajah Dhuleep Singh has developed unmistakable signs of insanity—at least, that is the most charitable way of accounting for the extraordinary proclamation which he has issued in Paris. He must be a veritable pachyderm not to see the intense comicality of the whole business. If there is any knowledge of Western events among the educated natives of the Punjab, they must know, as well as Englishmen, that the Maharajah tried to make a bargain in the coin of the realm with the English Government, but the latter thought he was overrating his own importance, and putting too high a price on himself. Honour and noble-mindedness recoil at this pitiful exhibition of foiled avarice ; and even the most poetic and sympathetic souls among the Punjab Sikhs must feel a cold shiver at this ignoble display by the prosaic patriot of pounds, shillings and pence !

It is said that Amir Abdur Rahman has collected 20,000 men on the Russo-Afghan frontier for the pursuit of Ishak Khan, and that he has invited the Amir of Bokhara to co-operate with him against Russia. There can be no doubt that the Mahomedans of Bokhara are chafing at the spread of Cossack predominance, and would dearly love to stem the tide of Russian aggression. But quite apart from any provocation, Russia is always on the look-out to seize any pretext for a *coup*, and General Komaroff has come to Chardjui. At the same time there seems to be no reason why Russia should not give a shelter to Ishak Khan, when England affords an asylum to Russian nihilists and the dynamo-political scum of European capitals.

In Burmah, the British troops are warring down the hostile frontier tribes, and our arms have been attended with almost unbroken success. The defeat of the Lepei Kachyens, and the capture of Thama, should induce other tribes to submit. In spite of occasional casualties, such as the lamentable death of Mr. Perreau, District Superintendent of Police, who was shot dead in his bungalow, the British troops move steadily forwards, and British pluck and determination are not to be denied. Several Burmans were rewarded for faithful and

loyal services at the grand Durbar held at Rangoon on the 1st of January, and the people are everywhere recognizing, that even the most reckless dacoits are powerless to stop the advancing forces of civilisation. The railway to Mandalay has been opened with much *éclat*, and the great progress made since the annexation is manifest, as pointed out by Sir Charles Crosthwaite, from the fact that the revenue has advanced from 22 lakhs to 67 lakhs in the third year of occupation.

The objects of the Naga expedition have been successfully achieved, and the expedition has returned. The Lushai expedition has so far met with success. Where civilization comes into contact with the savage barbarian, the former must yield sooner or later to that *ineluctabile fatum*, which is almost a law of nature—the necessity for a forward advance. The Indian and Bengal Government had hitherto refrained from reprisals, in spite of the murder of a British officer and unoffending villagers; but its hand has again been forced by a series of murderous raids marked by the most shocking cruelties. The Howlongs and Malliampuyias have submitted, and preparations are being made for a final advance. The only fear is that the expedition may prove abortive owing to the early setting-in of the rains, and that it may have to be undertaken afresh next cold season.

The deadlock in Sikkim continues. In our last "Quarter" we compared the Amban to the Great Roman General, Quintus Fabius Maximus, the Cunctator; but it seems to be the Lamas who are trying the cunctatory policy or waiting game. Chinese interests coincide with ours, even though the Heathen Chinese may be keeping an eye on the main chance. It is difficult to suppose that the Pekin Government will any longer brook being defied by the Lamas. The Government of India naturally refuse to recognize the claims of the Tibetan Lamas to suzerainty over Sikkim, and in their refusal they are supported by existing treaties. The aspirations of a people "struggling to be free"—or, at any rate, the interests of a people struggling for free trade with India—must not be sacrificed to the *non licets* of a proud and bigoted oligarchy of priests.

We trust some question will, in the interests of the taxpayer, be asked in Parliament regarding the extravagant grant of "batta" allowances to junior officers serving in Sikkim; we have heard it said that some have been enabled to pay off at least ten per cent. of the cost incurred by them on the purchase of warm clothing for the campaign. If this sort of thing goes on, the British tax-payer will be "wanting to know."

The "English of the North Pacific" are getting on. The Mikado has issued a proclamation granting a constitution to the

Japanese Empire, and also religious liberty, freedom of speech, and the right of public meeting. The natives of India enjoy the last three privileges in a greater degree than many European nations; but the only constitution they have is very much saturated with malaria.

There is great distress from famine in China in the Yangtze and Yellow River valleys, and millions are said to be starving.

### *Internal events.*

The "Congress" can hardly any longer be called a burning question: so mercilessly has the cold water *douche* been applied to it from very different directions, including Sir John Strachey in England, and Sir Madhava Rao in India. There has never appeared any more scathing and shame-inspiring criticism of British rule in India than that contained in the statement made by Sir Madhava Rao, in a remarkable letter written to a Bombay paper, that *now-a-days genuine loyalty has to be disguised more or less*—chiefly more, we might add. "The Government of India," says this able statesman, "looks on with the apathy and helplessness which are the natural instincts of the English rulers, dried to death by the tropical heat of India. They were more alive when the Empire was young." This is indeed a terrible indictment, if true, that those who are really loyal to English rule have to dissemble and disguise such loyalty in order to avoid being tabooed in their own *Samáj* (society.) It is said that Mr. A. O. Hume has been in Calcutta interviewing leading Pleaders from the sudder stations of Mofussil districts. Subscriptions are to be raised to start an agency in London for the agitation of Congress views in the English press. We trust Mr. Hume will not advocate the putting of the keys in the locks.

The temperance advocate has been on the stump, and though Mr. Caine has been convicted of some inaccuracies, we are among those who think that his mission will do good. Already there is a marked tendency to subordinate fiscal considerations to those of temperance, and Lord Cross, in the House of Lords, has bluntly stated that the excise policy is to regard the repression of drinking and of the use of opium (why did he omit ganja?) as the first object, the raising of the revenue being purely a secondary consideration. Drinking in the tropics must be far more harmful than in a cold country, and as Lord Connemará has pointed out, intemperance in drinking is the exception in Hindu and Mahomedan lands, though we would not go so far as to say it is the rule in Christian countries. The great difficulty which besets the question in the East—and this difficulty is either not known to, or not considered by

temperance agitators—is that, speaking broadly, every Oriental consumes either drink or drugs. It is a case of *drink versus drugs*, and the question is, which is the more harmful. It seems to us that the consumption of drugs is likely to increase in a direct ratio to the repression of drink. Moderate consumption of opium is said to be beneficial, especially to old people: but moderate consumption of liquor is probably far less baneful than a similar indulgence in ganja.

In receiving a deputation from the Central National Mahomedan Association, the Viceroy pointed out that the share of the Mahomedans in the national wealth and in the public service of the country was less than that to which their numerical strength entitled them; and while complimenting them on their courage and strength of purpose, he trusted they would succeed by their own exertions, and without any special favour being shown to them by Government. The Mahomedans have refused to play at follow-my-leader since they have realized that the followers do not get their legitimate share of the loaves and fishes of office. The country has split into hostile camps on the Congress question, and the two articles published by us in the Independent Section are a fair sample of the views and attitude of either party. The consciousness of ignorance grows more keen with the acquisition of real knowledge, and the cause of the extreme advanced party has not been furthered by its parade of omniscience and ostentatious assumption of universal capacity. These characteristics are an unerring index of the fact—pointed out in the Vice-Chancellor's speech at the annual convocation of the Calcutta University—that western education and culture have as yet penetrated but skin-deep into the Hindu. Sir Comer Petheram's original speech is only less important than that of the late Viceroy in the preceding Quarter. The Chief Justice remarked that there had been only a superficial veneer of imported civilisation; caste remained unshaken in spite of its incompatibility with the precepts of Western culture. English education had not succeeded in promoting social progress and individual freedom; the deeper lessons of English education had not been really learned; the notion of going forth to combat great abuses was as strange and distasteful as that of adopting a profession which demanded physical exertion as one of the conditions of success. Hinduism, so far from falling to pieces in the presence of Western civilisation, was extending itself remarkably in certain directions; unity of intellectual aims was not sufficient to create political unity; there must be unrestricted crossing of castes before a nation could be produced: social reform must precede national unity. Had the Vice-Chancellor been an executive officer, even of the highest rank, we fear he and his speech would have been virulently

attacked in the native press. As it is, it has been an amusing study to watch the struggle between policy and passion, each trying to overmaster the other—passion at the blunt revelation of unwelcome truths tempered by the policy of not giving offence to the *Lât Dharmavâtár* of an executive-ridden people.

*Police and Law.*

The report of the Crawford Commission is still confidential ; but it is more than whispered that Mr. Crawford has been acquitted of direct corruption. As to the corruption of the Bombay native Magistracy, the *Times* speaks out in no uncertain tone : "it is simply amazing that Lord Reay and his Council should have failed to perceive that pure justice cannot proceed from a corrupt source. If they still fail to perceive it, we can only say that the sooner their eyes are opened by public opinion in England, the better." This is plain speaking, and it is difficult to imagine a more perplexing dilemma than that in which Lord Reay's Government is now placed. Probably Mr. Lee Warner has gone home to explain the intricacies of the situation. Whatever happens, it is very clear that the corrupt Mamlatdars cannot go on exercising judicial powers. A great and just Government cannot break faith with its subordinate officers : neither can it abet the taking of illegal gratifications, and by keeping the men in office, it will of course do this. Here is a capital puzzle for *Vanity Fair*. Now that the facts are better known, general opinion seems to support the action of the Bombay Judges. It is truly a "beautiful case" of crimino-constitutional law, and like all "nice cases," it must cause hardship to the parties concerned. Our own opinion is that the clients must suffer : their death-agonies will at any rate evolve a ruling for the benefit of posterity. A prisoner in England may be convicted on a confession, even though such confession has been procured by deceit and fraud. *A fortiori*, an official may be departmentally punished, where there was no intent to deceive ! Q. E. D.

During the quarter, Captain Hearsey was imprisoned for one month for assaulting Mr. G. M. Chesney, Editor of the *Pioneer*.

The defamation case of *Fitch vs. Purcell* ended in a complete apology and retraction on the part of the accused. Mr. Purcell was released on his personal recognizance to re-appear within six months for sentence, and within the same period to re-imburse Mr. Fitch his law expenses. The English order to come up for judgment, if, and when called on, is no doubt a very salutary proceeding, and we have on several occasions advocated its extension to India. But as it is not the Indian law, it seems the Judge had no more power to pass such an order than a Magistrate would have. All Courts in India

are governed by the same Code of Criminal Procedure ; judgment must be followed by sentence.

The Quarter has been somewhat fruitful in *causes célèbres*. Mr. Justice Scott has awarded Rs. 30,000 to Sir Henry and Lady Morland in the suit brought by them against the G. I. P. Railway for damages for injuries sustained at the Victoria terminus, Bombay. In the "Paresnath Pig case," the Calcutta High Court has refused to confirm an injunction granted by the Deputy Commissioner of Hazaribagh to put a stop to lard-making, which the Jains regard as an obnoxious industry. This raises an important question of administrative law. The jurisdiction of the Magistrate under sec. 144 of the Code of Criminal Procedure is a bit of what is known on the Continent as *droit administratif* ; that is, it is not subject to the Civil Courts, but only to *tribunaux administratifs*, the highest such Court in India being the Local Government. If a Magistrate, acting under sec. 144 of the Code of Criminal Procedure, were to prohibit a Ram Lila procession from passing on the principal day of the Mohurram along a street inhabited principally by Moslems ; if he were to prohibit Sheahs from exhibiting a symbol offensive to the religious feelings of Soonees ; if he were to prohibit the opening of a butcher's shop in that portion of the town of Pooree, where the Pundas and Pariaris reside ; in these cases the only tribunal that could cancel his order would be the Local Government. These are extreme cases, but the principle is the same. Executive law does exist to a certain extent in India, though the fact is not generally recognized. In the present case we believe the Deputy Commissioner issued his order as a Civil Court, but we speak of what would be the effect of an order issued by him as a Magistrate under sec. 144 of the Code of Criminal Procedure. High State reasons exclude the jurisdiction of the Civil Courts.

The Patna Mission case has not yet been decided. It is a pity the Rev. Mr. Dyer used such violent language, but we must confess he had considerable provocation. A proceeding under sec. 551 of the Code of Criminal Procedure is not an elaborate civil trial : the fact that the woman was a Khettri widow should have raised grave doubts as to the validity of the second marriage, and lastly, it is difficult to see where the "unlawful purpose" comes in. Though the High Court have not yet given their decision, they have in a manner indicated their opinion that an unlawful purpose means an immoral purpose.

In the case of *Lalchand vs. The Agra Bank*, Mr. Justice Norris has given the plaintiff a decree for the value of the notes. The learned Judge's judgment is an interesting commentary on the article which appears in this issue, "The Trial of Questions of Fact in British India." The question at issue was

purely one of fact, and though the Judge probably did not fully understand the language of Sheolall, yet he speaks of his being convinced by the "truthful straightforward demeanour" of the witness. The two Bank clerks are said to have given their evidence "by rote like parrots," and the Judge remarks: "I prefer the statement of the man Sheolall to those of these two men." It will be difficult to upset this finding of fact. If the judgment stands, the Banks in Calcutta will probably have to adopt some system of giving tokens with numbers to the presenters of cheques, which numbers the latter will have to give to the clerks paying the cheques. Of course, a stranger might collude and give the correct number, but his doing so would be the strongest presumptive evidence of fraud and collusion.

The tank-filling nuisance case against the Calcutta Corporation has been committed to the High Court. We look forward with some interest to the legal development of this case. A Corporation has been criminally prosecuted in England for neglect to repair a bridge, that is, for a mere non-feasance as opposed to a misfeasance; we believe that in some States of America, where there has been misfeasance, the question of personal liability may arise.

Sir Henry Cunningham has retired from the Presidency of the Calcutta Health Society—a loss that will not easily be repaired. The Society is just beginning to reap the fruits of its determined perseverance; but no very great progress can be made until Central Sanitary Boards are appointed.

We were unable to chronicle the earthquake of the 23rd December in our last issue. One or two slight shocks were felt in the early part of January also. The seismic disturbance has recently made itself felt in England. Mr. Spencer made a successful balloon ascent and fall with a parachute in Bombay, but a similar attempt in Calcutta was a failure owing to a deficient supply of gas. Messrs. Barbour, Cunningham, Durand, Markby and Macpherson have been knighted. The skating rink has been one of the principal features of the season in Calcutta. It has been denounced as a "den of iniquity:" "den" is not a bad word, but "sink" would have been better as it rhymes with rink. But joking apart, the public are anxious to know where the iniquity comes in.

The following Bills have been passed: Measures of Length: Metal Tokens: Collection of Succession Debts; and the Bill to amend the Indian Succession Act, the Probate and Administration Act, and the Court-fees Act. If the Collection of Succession Debts Act be worked properly by District Judges and Collectors, the Government should have no difficulty in repealing the Income-tax.

H. A. D. PHILLIPS.

*The 17th March 1889.*

## SUMMARY OF ANNUAL REPORTS.

*Report on the External Trade of Bengal with Nepal, Tibet, Sikkim and Bhutan. For the year 1887-88.*

**D**URING the year under report, external trade returns adhered to past year's averages, in spite of the war in Sikkim, and a damp season. A very creditable performance.

It may interest some of our readers to know that the total value of the external traffic registered for the last three years has been—

		Imports into Bengal.		
		1885-86. Rs.	1886-87. Rs.	1887-88. Rs.
From Nepal	...	93,18,431	1,02,77,226	1,12,34,228
„ Tibet and Sikkim	...	4,48,590	3,23,102	3,65,262
„ Bhutan	...	99,164	77,072	1,28,913
Total	...	98,66,185	1,06,77,400	1,17,28,403

		Exports from Bengal.		
		1885-86. Rs.	1886-87. Rs.	1887-88. Rs.
To Nepal	...	52,27,817	52,90,285	73,51,720
„ Tibet and Sikkim	...	3,24,355	3,92,295	2,50,834
„ Bhutan	...	1,00,787	1,54,725	1,80,677
Total	...	56,52,959	58,37,305	77,83,231

Trade in cattle continued to be "active." The increase in the exports of European piece-goods from Bengal amounted to Rs. 2,80,674 on the previous years' returns, the largest increase occurring *via* Kutkenwa, which is on the high road to Katmandoo. The import trade, under the head of *other fibres, raw*, showed a large decrease, no less than 22,665 maunds. The import trade in "villainous saltpetre" is reported as steadily falling off. The supply of linseed conformed to the statistics of 1886-87. As regards mustard seed, the supply fell off by 23,623 maunds as compared with 1886-87, but increased by 25,245 maunds as compared with the previous year.



*Twentieth Annual Report of the Sanitary Commissioner for Bengal. For the year 1887. Including brief notes on Vaccination in Bengal for the year 1887-88.*

UNLIKE the generality of statisticians, the Sanitary Commissioner for Bengal is willing to admit that the statistics, evolved from his office, represent no more than approximately correct results. As such, the following figures, with reference to births, are given :—

Towns.	Ratio per mille.	Towns.	Ratio per mille.
Jamalpore in Monghyr	... 50'21	Rungpore	... 9'23
Pubna ...	... 43'29	Cutwa ...	... 9'38
Sewan ...	... 39'00	English Bazar	... 9'65
Brahmanbaria ...	... 37'62	Santipur...	... 10'47
Sitamarhi ...	... 36'24	Bussirhat	... 10'56
Comillah ...	... 35'61	Kumarkhally	... 10'59
Hazaribagh ...	... 35'54	Hajipur ...	... 10'77
Bettiah ...	... 34'56	Kotrung ..	... 10'78
Assensole ...	... 34'44	Utterpara	... 19'96
Sherepur ...	... 34'09	South Suburban	... 11'49
North Dum-Dum	... 33'45	Chundrakona	... 11'66
Dui bhanga	... 33'43	Dacca ...	... 12'22
Chattrra ...	... 31'84	Baduria ..	... 12'43
Monghyr ...	... 31'46	Madhubani	... 12'50
Kendrapara	... 30'96	Seraiganj	... 12'97
Beauleah ...	... 30'87	South Barrackpore	... 13'14
Rajpur ...	... 30'82	Burdwan ...	... 13'46
Jehanabad in Hughli	... 66	Naihaty ..	... 13'65
Kustea ...	... 1'85	Bali ...	... 14'51
Baraset ...	... 1'89	Purneah...	... 14'58
Barisal ...	... 2'65	Bansbaria	... 14'64
Satkhirra ..	... 3'20	Faridpur	... 15'10
Nassirabad	... 3'50	Puri ...	... 15'33
Boidobatty	... 3'96	Midnapur	... 15'37
Bogra ..	... 4'04	Purulia ...	... 15'90
Sudharam	... 4'68	Baranagor	... 16'24
Ranaghat	... 5'75	Chybassa	... 17'31
Debhatta ..	... 6'16	Ramyibanpur	... 18'05
Kulna ...	... 6'32	Cuttack ...	... 18'10
Bhuddessar	... 6'49	Bankura...	... 18'18
Kishoreganj	... 6'66	Goberdanga	... 18'52
Jajpur ...	... 6'85	Kishnagur	... 18'63
Chupra ...	... 7'19	Barrh ...	... 18'80
Nobodip ..	... 7'23	Damhat ...	... 19'00
Joynagor	... 7'54	Suburbs of Calcutta	... 19'19
Mozufferpore	... 8'28	Chittagong	... 19'20
Meherpur	... 8'54	Tumlook	... 19'35
Jessore ...	... 8'59	South Dum-Dum	... 19'42
Taki ...	... 8'98	Patna ...	... 19'49
Ranchi ...	... 9'05	Jehanabad	... 19'86
Darjiling	... 9'15	Howrah ...	... 19'89

In other Municipalities the rates varied from 20'64 to 29'13, and in Doctor Lidderdale's opinion demonstrably defective registration has grown out of the neglect of Municipal Commissioners to do their duty ; to look after the work they insisted on taking over from the police. Dr. Lidderdale believes the

death statistics of his department to be more "approximately correct" than those having to do with births : with a grim sense of humour, he writes :—" The most unhealthy district in Bengal is Monghyr, but this arises from the energy of the police officer, not the nature of the climate." Further on we come across this :—

A true record is hardly to be looked for in such districts as Singbhum and Lohardugga, but such a difference as Cuttack 18'90 and Puri 33'38 seems inexcusable. In the Burdwan Division, correct results would naturally be looked for, but Bankura district gives a rate of 15'95, Serampore 18'68, Burdwan 19'43, and Howrah 19'95. Close to Calcutta as the last three districts are, much better results might be expected. It is evident that in this division, as in others, registration has not had the attention the great importance of the matter demands.

Of the 1,552,528 deaths recorded during the year 829,330 were males, 723,198 females. These figures represent an admittedly high death rate. For every 1,000 females 1,146 males died—a ratio much in excess of that which obtains in England. We are told that "the difference of total mortality between Calcutta and other towns in Bengal amounts only to 1'22 per thousand of population ; but while Suri only registers a rate of 5'47 from gross neglect of registration, Jehanabad 5'04, Baduria 7'62, Ranaghat 6'33, Kushtia 9'05, Sudharam 9'36, and so on, it is idle to institute any reliable comparison. The excess of fever in mofussil towns and of casualties from "other causes" in Calcutta may be explained by the better diagnosis of death causes in the latter. A small-pox death-rate of '004 in Calcutta is creditable to the sanitary officers."

Here is a paragraph from Dr. Lidderdale's Report that is worth reproducing :—

Prices generally did not rule higher in 1887 than in 1886, or the average of the

	Price per maund in 1887.			Average price of the three preceding years.	Difference in 1887.	Price per maund in 1886.	RAINFALL.	
	Rs.	A.	P.	Rs.	A.	P.	Inches.	Average of preceding years.
Common rice ..	1	12	8	2	6	10	0 10 2D	2 1 3
Wheat ...	3	5	4	3	0	2	0 3 10D	3 15 3
Pulses ..	2	0	8	0	7	3	0 6 7D	2 5 5
Fish ...	6	14	8	7	4	1	0 5 5D	7 4 11

three preceding years, *vide* marginal table ; but till means of distribution are complete in all districts, local conditions of climate and rainfall affecting crops will always in limited areas,

react on the health status of the people.

*Report on Municipal Taxation and Expenditure in the Lower Provinces of Bengal, for the year 1887-88.* Calcutta : Printed at the Bengal Secretariat Press. 1888.

FROM the official Reports on Municipal Taxation and Expenditure in the Lower Provinces of Bengal for the year 1887-88, we gather that at the close of the said year the number of Municipalities was 141, against 138 in 1886-87. The towns of Tangail in the district of Mymansingh, Dinapore, Nizamut and Khagoul in the Patna Division, and Kissengunge in Purneah were constituted Municipalities. The Municipality of Goalundo, in the Furreedpore district, was abolished in September 1887, owing to the destruction of a portion of the town by the encroachment of the river Pudma. This necessitated the removal of the railway terminus, and the sub-divisional headquarters to Rajbari, a village in the neighbourhood. The question of the withdrawal of the town of Assensole from the operation of the Act, which has formed the subject of a long correspondence between Government and the East Indian Railway Company, was settled during the year under review. It has been decided to abolish the Municipality as soon as the sanction of the Government of India has been obtained to the provision of certain sanitary requirements of the town, at the Company's expense. The following is hopeful :—

The second general election of Commissioners under Act III. (B.C.) of 1884 was held during the year on the expiry of the term of office of those elected in 1884. The table given in Appendix B shows the results of the elections, the number of registered voters in each ward, and the number of persons who actually recorded their votes. The figures show a very remarkable improvement over those of the bye-elections held in the previous year. The percentage of actual voters to those entitled to vote was 33·8 against 20·5 in 1886-87. The remarks which have been recorded by Commissioners on the subject show, that the results of the present general election are everywhere more encouraging than those of the election of 1884, and that though in a few cases the attitude of the people is still apathetic, in the large majority of instances there has been a real advance in the interest shown in the elections.

Upon this subject the Commissioner of the Presidency Division, observes :—

“There are unmistakeable signs of a growing desire among the Hindu population to elect better *representative* men in the proper sense of the word than formerly. The late elections were certainly more numerous, attended and more hotly contested than on the last occasion, and there is little doubt but that the members of the new Boards, having been chosen more on their own merits than formerly, will show a better disposition to work together for the common good in a temperate and conciliatory spirit than has hitherto in some instances been the case.”

The Commissioner of Rajshahye writes :—

“A good deal of enthusiasm is said to have been exhibited in some places, but it was mainly amongst the educated classes. In the Rampore

Beauleah Municipality, the lower classes are reported to have shown undeniable signs that they are becoming alive to their rights and privileges, for in one ward they showed their independence by returning a butcher as Municipal Commissioner."

The Commissioner of Patna writes :—

"In almost all the Municipalities in which the elective system is in force, interest was displayed by the people in the election of their representatives. In some of the Municipalities, notably in Patna and Chupia, the seats were keenly contested."

Free choice as to a Chairman has been granted to nearly all Municipalities "now included in the second schedule." This grace is not vouchsafed to Calcutta, Patna, and Darjeeling. We are not told why; but we are told that Municipal Commissioners in other places exercise generally, as to this matter, a wise discretion. Are we to conclude that the *Patres conscripti* of Calcutta, Patna, and Darjeeling cannot be trusted to do likewise? Or are these communities too important to have their welfare risked by experiments?

Convictions were obtained in 81·2 per cent. of the cases tried before Municipal Commissioners, sitting as honorary Magistrates for the disposal of cases of nuisance, breach of conservancy rules, &c. The desirability of sanitary reforms is, as usual, preached. *Apropos* of water supplies we are told :—

The Howrah water-works scheme is still under consideration; the Midnapore scheme, which is estimated to cost Rs. 3,30,000, is pending from want of funds; for Hooghly and Chinsurah, a scheme was prepared, costing about Rs. 3,59,000; and a similar scheme has been prepared for Cuttack to cost three lakhs, but they have both been abandoned as the money could not be found. It is hoped that the Howrah scheme will soon be carried out, but the difficulty in this case is to obtain a supply of water sufficiently pure to justify the expenditure which must be incurred on it.

The total Municipal revenue of the year amounted to Rs. 29,22,637, against Rs. 28,35,397 in 1886-87. We note that

The receipts under head "Conservancy and road-cleaning, sale proceeds of night-soil and street-refuse, &c.," show an increase of Rs. 5,953 over those for the preceding year, the total income coming up to Rs. 14,193. It was pointed out in the Government of India orders No. 95, dated 30th July 1887, that this source of income was capable of great expansion, and in other provinces, especially in the Punjab, yielded a considerable revenue. The Lieutenant-Governor has every confidence that this hitherto neglected source of municipal income will receive the careful attention of the Commissioners. In some districts, such as Hooghly and Monghyr, the question has not been neglected, and the Sanitary Commissioner has recently issued a circular to all Municipalities communicating instructions for the proper disposal of night-soil in shallow trenches. The Department of Agriculture has also not lost sight of the importance of the subject.

Receipts from tolls and ferries have steadily decreased during the last few years—generally speaking, from adequate causes; e. g., in Mozufferpore last year's decrease was due

mainly to the opening of the Akhara Ghât bridge over the Little Gunduk river, and in Serampore to a reduction in demands made at ferries. It is not a paradox to say that these reputed losses were veritably gains.

Upon the whole, the Lieutenant-Governor considers that there is evidence to show that the Act has worked satisfactorily, and that the Commissioners have as a body discharged their functions with intelligence, although here and there marked failures in administration have occurred, owing to party faction and the jealousies of individuals. This was conspicuously the case at Dacca, and the Magistrate of Hooghly found himself beset with similar hindrances to smooth and efficient working. The following words quoted from the Government Resolution are opportune and significant:—

The sense of public duty which leads men to subordinate their personal interests to the general welfare, is the gradual outcome of the growth of responsibility, which, it may be hoped, will be developed as experience is gained. The remarks of the Magistrate of Rungpore regarding the neglect of the Commissioners to take action for the revision of the assessments are also widely applicable. It is a matter of notoriety that the policy of Municipalities in India tends always, whenever possible, towards lightening the burden of the rate-payers in the matter of taxation, and it is no easy task for the executive authorities, by the exercise of judicious advice and encouragement, to apply the degree of pressure, without unnecessary and improper interference, which is required to enforce a vigorous administration in the assessment and collection of rates. But in view of the expenditure which it will be necessary for Municipalities to incur in respect of sanitation, it is now more incumbent than ever on all local bodies to examine carefully all their sources of income, and to avail themselves to the fullest extent of all opportunities for improvement.

*General Report on Public Instruction in Bengal for 1887-88.*

THE figures given in Indian Departmental Reports often appear to have been arrayed mainly with a view to the bewilderment of the uninitiated: the *profanum vulgus* might even be led by them to misconception, and a notion that their esoteric design is to throw dust in exoteric eyes. It is puzzling for instance, to be told in last year's General Report on Public Instruction in Bengal that—owing chiefly to the transfer of educational funds to district Boards—the net Government expenditure on schools, &c, while showing an apparent decrease of Rs. 10,22,000, has, as a matter of fact, increased by Rs. 3,88,000. Whereas on another page it is stated that the net Government expenditure fell short of the estimate by Rs. 1,76,087, and the net receipts exceeded the estimate by Rs. 1,48,600. The first page of the Report informs us that under the head of public institutions there was an increase of 313 schools and 39,630 pupils, and under private institutions an

*apparent* increase of 5,827 schools and 51,213 pupils. It is satisfactory to be informed that "in all classes of Schools under private management receiving grants-in-aid, the fee-receipts increased by Rs. 99,793 ;" also, to find that the amount of their local income from endowments and subscriptions increased by Rs. 6,074.

The Report contains a chapter on the recommendations of the Education Commission. In manifold ways, and by divers authorities, they have already been vehemently threshed out, and we need not therefore say much about them. But we must take the opportunity heartily to endorse the Commission's verdict, that inspection in the higher educational grades is apt to tend towards incompleteness—fussiness. We note that the recommendation to reduce the inspecting staff has been followed to the extent, that vacancies caused by the death of Baboo Surat Chundra Das, Assistant Inspector of Rajshahye, and by the appointment of Baboo Dina Nath Sen to officiate as Inspector of the Eastern Circle, have not been filled up. Sir Alfred Croft considers the new arrangement to be "of doubtful value." Apropos of zeal for inspection duty, Sir Alfred himself is of opinion "that it does not follow that activity is in every case synonymous with efficient inspection.. When, for example, 815 schools are visited in a tour of 244 days, or still more conspicuously, 743 schools in 200 days, it is impossible to resist the conclusion that the time of these officers would have been better employed if they had given more time to the examination of each school, and had not aimed at rushing through three or four schools in a day. Energy and activity are among the highest merits of an inspecting officer, but it has repeatedly been pointed out that they can be overdone. Thoroughly satisfactory work can be secured without rising to such extravagant figures as those just noticed ; and I should be inclined to say that, exceptionally favourable circumstances apart, the most useful work would be done by an officer who was on tour for something like 250 days in the year, and inspected something like 500 schools in that time. At the same time it should be remembered that an officer may make a good show of schools inspected, when the number of schools actually visited by him is but small. An instance may be given from the Bhudruck sub-division of Balasore, where the Sub-Inspector has 945 schools under him. Of these he visited 55 more than once, 100 once, and 753 not at all. As he paid altogether 333 visits to schools, it follows that the 55 schools which he specially favoured received more than four visits each—a distribution which cannot be commended, and which; in the interests of the 753 neglected schools, appears to deserve the careful attention of the District Board."

As to the vexed case of the rival merits of chief Gurus and Pundits as inspecting machines, the balance of Departmental opinion is, we are told, strongly and incontestably in favour of the Pundits. The matter however has to be left for decision to District Boards. By the way, information afforded by Sir Alfred Croft's Mofussil subordinates, as to the working of Districts Boards, is referred to deprecatingly as of a "somewhat fragmentary character." But the fragmentariness seems to us natural enough. Instances of situations where the action of gregarious humanity is not influenced by its surroundings are rare. In the Mofussil not a few school Inspectors are either *ex officio* or elected members of local "Boards." As to that functional honour, Mr. Bellett suggests that "there is something to be said both for and against the presence of the Deputy-Inspector on the Board. On the one hand, if he is a member, he can give invaluable assistance to the Board, both by way of information and by way of advice, without the delay and inconvenience of correspondence; and as an officer constantly travelling all over the district, he would, it may be supposed, be able to be of service in other matters besides education. On the other hand, there is the danger that by virtue of his superior knowledge, he might either have all the Board's educational work thrust upon him to the detriment of his regular duties, or (from a different point of view) be allowed to take command of the whole educational business of the Board, and from that position fight with and defy the Inspector, his superior officer, to the injury of discipline and the complete subversion of local self-government properly understood."

In connection with this subject it seems expedient to quote at length from Sir Alfred Croft's Report thus :—

"As to the general character of the work done by the District and Local Boards, it is too early yet to form any decided opinion. It was natural to suppose that at the outset they would take no very strong or independent line, but simply conform to the traditions and practices of the Department to whose duties they succeeded. It appears, however, that the Boards have not followed a uniform policy in educational matter. The Assistant Inspector of the Bhagulpore Division writes of them :—'During the short time they have been at work, there has been not a single instance of any friction between them and the Department; the suggestions and recommendations of the inspecting officers have been always duly considered and adopted, and the Inspector of Schools has been often consulted in important matters.' Still, some inconvenience has been felt from delay in the despatch of business by the Boards. In the neighbouring division of Patna, a less confident note is heard. In the districts of Patna and Sarun, there have been no particular changes, and the working of the Board has been satisfactory. Of Gya, it is said that 'the Board has done nothing in connection with education that would look like its own work.' But of Shahabad—'it is a fact that the Shahabad District Board has not worked smoothly with the Department.' The Inspector condemns the action of the

Chumparun Board on one point—'It has most unwisely, in my opinion, amalgamated cattle-pounds with pathsalas, and the teachers are charged with the management of these pounds in addition to their own duties.' I may remark that the same policy has been followed in the districts of Hooghly and Jessore, and that it has been strongly recommended for general adoption, on the ground that by thus increasing the emoluments of the pound-keeper-Guru, you secure a better class of men for the work of instruction. In Orissa 'the working of these bodies has been watched with interest by the District Deputy Inspectors, who have given them all reasonable advice and assistance.' But in Balasore, considerable friction seems to have been caused by the presence on the Boards of certain members holding positions subordinate to the Deputy and Sub-Inspectors, on whose work they are thus enabled to sit in judgment. The difficulty is said to be intensified in Balasore by the rancorous party-spirit which prevails in that district, and which finds such frequent expression in the vernacular papers. The Dacca Inspector remarks that even now there are some indications that the duties of District Boards will have to be modified before long; but he gives no more explicit intimation of his views. The District Board of Chittagong seems to have followed an independent course:—'All praise or blame,' writes the Deputy Inspector, 'for the manner in which it has managed its work is entirely its own, for it has little consulted the Education Department, and has not been much guided by it.' Complaints are also made of delay and other shortcomings; 'but,' the writer concludes, 'the Board has had only a year's trial; it should not be judged harshly yet; it is hoped that as it gains experience it will manage education as well as the Department, if it works in harmony with it.' In Tipperah, too, the Deputy Inspector observes that his opinion is not always asked for, or if asked for, not much regarded by the District Board; and again there are complaints of delay and also of partiality. Under the rules, the Boards are required to report their proceedings on certain matters and at certain stages to the Inspector, but not to any lower officer; and the Assistant Inspector remarks that he knows absolutely nothing of what is done by the Boards in the Chittagong Division. The Inspector of the Rajshahye Division finds that the District Boards take but a languid interest in educational matters, though he is not yet prepared to express a decided opinion as to the effects of the change. In the Burdwan and Presidency Divisions, there are no complaints of friction; though in the latter, occasional omissions and failure to comply with rules are noticed on the part of the Boards, especially in the matter of keeping the Inspector informed of their proceedings. The officer remarks that 'the District Boards are still in their infancy; . . . as they gain experience they will be in a better position to supervise primary education,' though it may be gathered that as to secondary education he is less confident.

"The District Boards have generally furnished independent reports of their educational work for the year, though in some instances it is observed that they have adopted bodily the report of the Deputy Inspector."

To the man with eyes to see, and a heart not yet dead, the following quotation from the Report is melancholy reading:—

"The increase in the number of colleges, considerable as it is, falls very far short of the increase in the number of students, which far surpasses the experience of former years. In the five years from 1882 to 1887, the total increase fell short of 500; in the year 1887-88 it exceeded 1,200. This remarkable increase is fully explained by the results of the Entrance Examination of 1887, when 2,409 candidates, or 69 per cent. of the number presented, passed the examination, against 93, or 29 per cent. in the previous year. The strength of the colleges varies with the supply of the raw material thus provided. The increase is spread over institutions of all



classes—316 in Government colleges, 185 in aided, and 748 in unaided institutions. Classified otherwise, the students in Calcutta have increased by 651 (2,182 to 2,833); those outside Calcutta by 628 (1,033 to 1,661.) In the town of Dacca alone there is an increase of 173 students—57 in the Government and 116 in the private college.

The Bhimpur Sonthal Training School is under the American Baptist Mission. It had on its rolls on the 31st March last 105 pupils, of whom 72 were males and 33 females. No tuition-fee is charged; and about 30 pupils, coming from distant places, receive daily allowances of a few pice. Neither girls nor boys proved successful at the examinations they were sent up for.

The work of instruction in zenanas is entirely in the hands of agencies conducted by four Missionary bodies. The number of teachers employed under each agency, and the number of pupils receiving instruction under it, are given below. For return purposes, it has been the practice to count each teacher as an upper primary school, and they are so included in the 274 upper primaries mentioned in the first paragraph of this section. The expenditure on the 99 zenana schools was Rs. 51,980, against Rs. 53,736 in the previous year; of which Rs. 14,704 were paid from provincial revenues, Rs. 4,057 from fees, and Rs. 33,219 from subscriptions and other sources:—

NAMES OF AGENCIES.		1886-87.		1887-88	
		Teachers.	Pupils	Teachers.	Pupils
1.	American Mission Zenana Agency	73	1,306	71	1,435
2.	Church of England ditto	17	90	14	196
3.	Church of Scotland ditto	7	37	7	58
4.	Free Church ditto	13	48	7	39
Total		110	1,481	99	1,728

The pupils increased by 247, though there was a decrease of 11 schools, or more strictly of 11 teachers, who have been transferred from zenana work to the charge of girls' schools under the several Missions. Some explanation of this character not having been furnished in the Inspector's report for the previous year, it was erroneously believed and stated, that the operations of the Free Church Zenana Mission had suffered a contraction. A similar misconception arose in connexion with the Church of Scotland Schools, and is accounted for in the same way. In the American Mission, the zenanas proper and the schools for little girls are not separately shown, all being returned as zenana schools; but it is understood that the Mission maintains 14 girls' schools in different parts of the town and suburbs, and eight at Rajpur in the 24-Pergunnahs. If the teachers of these 22 schools be separated, the figures for zenana schools proper under the Mission would be greatly reduced.

To convey a correct idea of the work done by each Mission, it is essential that the zenanas proper and the schools for little girls should be carefully distinguished.

The operations of the zenana agencies are not confined to the town, but extend to the suburbs and to several places in the 24-Pergunnahs district. The duties of the teachers consist in visiting a certain number of houses once, twice, or thrice a week, and in teaching the inmates needle-work in addition to reading, writing and arithmetic in Bengali or English. In many houses, ladies of mature age learn needle-work alone from these teachers. Generally speaking it may be said that progress is being made in the matter of female education in Bengal, though not quick progress. Perhaps that is all the better in the long run for the object aimed at. Girton and Newnham, the Lady Margaret and Somerville Halls, were not built in a day. If they had been, we more than doubt whether they could have become such centres of light and leading for the feminine world as they now are.

The invested funds of the Bruce Institution now amount to about Rs. 6,50,000, yielding an annual income of nearly Rs. 26,000. Under orders from the High Court of Calcutta, it is administered by a body of twelve Governors, five *ex-officio*, and seven others representing different denominations and interests. Up to the 31st March 1888, two elections had been held, and 79 girls admitted to the foundation. The great majority of these are educated at the Calcutta Free School, and the Loretto Convent at Entally.

*Report on the Administration of the N.-W. Provinces and Oudh,  
for the year ending 31st March 1888.*

IT goes without saying that under such able guiding hands as those of Sir Alfred Lyall and Sir Auckland Colvin, affairs went well last year in these Provinces, in spite of cholera epidemics and much fever. These are malarial sun-spots, not affecting the colour of the sun, which are only to be remedied by drastic sanitary measures, for which the Local Self-Government evangel is not yet ripe.

In the N.-W. P. and Oudh Administration Report the returns of railway-borne traffic exhibit a figurative falling off; but railway returns are not worth much, except as figures. The fact remains that in the N.-W. P. and Oudh, trade centres are being developed, trade adaptabilities assimilated or originated, as occasion requires.

As to N.-W. P. Railways, there was no change in administration through the control had passed from Provincial to Imperial

hands : a mere alteration of names and signboards, signifying nothing. As to canals, we learn that expenditure was incurred chiefly on distributaries; a decidedly commendable feature in canal management. The displacement of cash and credit balances in this connection may possibly be accounted for by the statement, that "the rainfall for the year was above the average, and there was (consequently) no great demand for canal irrigation." The percentage of acreage irrigated was 11·3 per cent. less than in the previous year; but "12·7 per cent. less than the average for the last ten years." "The gross revenue realized during the year was Rs. 53,56,135, and the net revenue Rs. 27,85,495."

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*Report on the Administration of the Punjab and its Dependencies  
for 1886-87.*

IN official eyes, the principal event, of the events epitomized in this Blue Book, was the completion of the distributaries of the Sirhind Canal; but native opinion probably holds it a much more important tide-mark on the year's record, that the Rajah of Mandi received for the first time the honour of a return-visit from the Viceroy. It is of course gratifying to the British lion to be reminded, in connection with the North-West frontier, that the aliwals have been nominally under blockade for more than ten years, although the blockade has been practically allowed to lapse, and the scores against the tribe, and Arsala Khan its Chief, are still unsettled.

Throughout the summer of 1887 there were "one or two" border raids. Details regarding the Bhagrian of July 1887, the Oldigraun raid of January 1888, and the attack on the party of Major Battye and Captain Urmston, which resulted in the death of those officers, "belong to the history of a period later than that now under review"—and will be made public probably when public interest in their sad fate has been superseded by events of more immediate moment.

"Some of the Chiefs of Swat or their representatives were received in Durbar by the Viceroy in the autumn of 1887, and several of them have been frequent in their professions of friendship to the British Government. They have received the usual replies to the effect that the British Government desires them to remain independent. From time to time rumours are current of intentions on the part of His Highness the Amir to assert his influence more strongly in these territories; but in the present state of Afghanistan, it seems highly improbable that any practical steps will be taken in this direction."

During 1886-87 settlements were in progress in Karnal, Umballa, Northern Umballa and Ferozepore. The Rawalpindi settlement was completed, with the result of an increase in assessments of between  $2\frac{1}{2}$  and  $2\frac{3}{4}$  lakhs of rupees, payable for the most part to Government. Land Revenue collections for the year amounted to Rs. 2,18,56,920 ; half a lakh less than in the previous year, 1885-86.

The long pending question of the strength and cost of municipal police was decided during the year. The strength was increased, and the proportion of 1st grade constables fixed at two-thirds of the total number. The sanctioned strength of the Police under Act V. of 1861 stands at little more than 20,000—a weak body enough when the requirements of the Province and the character of its population are considered. Statistics show that there is one policeman to 5.02 square miles and to 902 souls of the population. It has been for some time in contemplation to raise the strength of the police in certain localities found to be specially affected by crime by means of levying the increased cost on the offending villages. This is an expansion of the old system of punitive police posts.

Punjab statistics under "Police" and "Criminal Justice" would seem to point to a serious increase of crime in the erewhile pattern province. We are told that "in the three years for 1884 to 1886, there have been increases amongst cases admitted to have occurred principally under the heads of "Murder," "Attempts at Murder," "Culpable Homicide," "Burglary," "Cattle Theft" and "Simple Theft ;" and while the offences admitted to have occurred thus rose from 98,890 in 1884 to 101,357 in 1885 and 103,372 in 1886, the number of cases brought to trial actually declined from 80,782 in 1884 to 79,634 in 1886. It is acknowledged with regret that the power of the Magistrates, the Police and the Criminal Courts to repress crime seems to be diminishing.

"Native Magistrates are too ready to acquit or pass inadequate sentences. The Courts are often hampered by technicalities of procedure, or fear that convictions will not successfully run the gauntlet of appeal.

"Legal practitioners are becoming more numerous, while on the other hand there is a great want of public prosecutors to represent the Crown. These and other circumstances connected with the spread of crime in the Provinces are receiving the very serious consideration of the Lieutenant-Governor, and it is hoped that before long measures will be introduced leading to some improvement."

In one and the same para we are told that, by dint of great economy, the Inspector-General of Punjab Prisons has been able to reduce the contingency charges which were Rs. 79,156

in 1882, to Rs. 40,664 in 1886, and that the rate of mortality in the Lahore Central Jail was "grievously high." One would like to know whether this is a mere statistical accident, or a legitimate development of cause and effect.

The appellate work of District Courts is said to have been generally performed with promptitude, "the average duration of appeals being 30 days." At the close of 1886 there were "heavy arrears" pending in the Delhi, Jullundur, Hoshiarpur, Amritsar, and Jhelum Divisional Courts. With reference to the Civil business of the Chief Court, we are told that appeals from lower Courts rose from 906 in 1885 to 2,671 in the following year. Thus is wisdom justified of its children, and the reign of the Vakeel vindicated.

The income from Registration was, during the year, "Rs. 1,92,859, leaving, after deduction of expenditure, a surplus of Rs. 90,131, the largest on record. As compared with the the previous year, the number of documents registered increased slightly, the increase being limited, however, to the compulsory class. But the total was below the average of the five years ending 1876-77 as well as of the five years ending 1881-82. Notwithstanding this decrease in the number of registered documents during the past, as compared with previous periods of five years, the receipts from all sources are considerably above former averages". Here is a more interesting para. :—

The Lahore Veterinary School continues to do good work. Efforts have lately been made to give the instruction there imparted as practical a character as possible. The appointment of an additional Professor is an admitted want, and it is hoped that the proposals made for the purpose of strengthening the staff will now shortly be sanctioned.

There can be no doubt that the efforts made to improve the breed of horses in the Punjab are appreciated by the people, and have succeeded well. The attendance at Horse Fairs did not fall off notwithstanding the prolonged drought. No one, who has had opportunities of travelling about the Punjab during the past 10 or 15 years, can have failed to have been struck by the great, if gradual, improvement which has taken place in the young stock of the Province. What with the Biluch mares and the Shahpur mares, and other good strains in other localities, the Province has good opportunities in the matter of horse-breeding, and the subject will, no doubt, continue to receive the attention it deserves, both from leading men amongst the people and Government officials.

We rejoice to hear that in the year under report a large increase took place in the number of students who had advanced beyond the most elementary stages, and that the income from school fees greatly improved. On the other hand, the number of boys in the Lower Primary stage decreased. It is considered noticeable that whereas there were 14,160 boys learning English in Secondary Schools in 1885, there were on the first of April of the following year 16,552.

# CRITICAL NOTICES.

## GENERAL LITERATURE.

*College History of India, Asiatic and European :* By J. Talboys Wheeler : London, Macmillan and Co. 1888.

THE writer has established his reputation as an historian of India, his "History of India from the Earliest Ages" in five volumes being his principal work. It is perhaps not generally known that the analyses and summaries of Herodotus and Thucydides in Bohn's Philological series are the product of Mr. Wheeler's pen.

The volume under notice is a most readable book, and is extremely well suited for use in schools and colleges. Even those who have perused the larger works of Orme, Marshman, Thornton and Mill might still learn something from this excellent little history. The author has done for India what Green's Popular History has done for England; and when a popular and readable style is combined with intimate knowledge and accuracy, there is little left to desire.

In early Indian history, the first tangible figure we come across is Sakyamuni (B. C. 400-450), afterwards known as Gautama Buddha. The first fixed event is the invasion of India by Alexander of Macedon (B. C. 327.) The Greeks who accompanied him are said to have been much struck with the warrior class of the Panjab. Their marriages were those of a military tribe. Sometimes a pair married out of pure affection. Sometimes the maidens were given as prizes to warriors who surpassed the others in boxing, wrestling, running, or archery, and were left to choose their brides. We next come to Sandracottus, the Chandragupta of Hindu tradition. Megasthenes has much to tell us about Sandracottus, and the system prevailing in his time. He mentions seven castes, the four of Sanskrit tradition, and the additional castes of shepherds, inspectors, and officers of State. Asoka, the grandson of Chandragupta, flourished about B. C. 250, and his edicts, engraven on rocks and pillars, remain to this day to testify

to his existence; and the extent of his dominion. His reign was marked by religious tolerance, and he himself was converted from Brahmanism to Buddhism.

The author next describes the Scythian conquest and the times of the Mahābhārat and Rāmāyana. The existence of certain social customs may be inferred from these epics, *e. g.*, that polyandry was not unknown, and that women selected their own husbands by means of the ceremony known as "Shoiombor" (self choice). We then come to the invasions of the Arabs, Turks, and Afghans (A. D. 570-1565). The Mahomedans warred to convert the conquered to Islam, and to this day their religion is their nationality. The golden age of Arab rule was the Caliphate of Haroun al Rashid (A. D. 786-833) when science, music, poetry and learning flourished. It is said that every mosque had its school, and every city its college or university. Turkish supremacy succeeds, commencing under Mahmud of Ghazni, who in his iconoclast fury, destroyed the temple of Siva at Somnath. Mahmud died in 1030. We then get a bird's-eye view of the slave kings and other dynasties, and passing these dry-bone chronicles, we come to the great Moghul Empire under Baber, Humayun, Akbar, and Jehangir (1526-1627). A striking characteristic of these times were the intermarriages of Hindus and Mahomedans. The Mahomedan conquerors took Rajput princesses to be their wives, and gave Moghul princesses as wives to the Rajas. It has been said of the English that they succeed as a colonising race because they abstain from mixed marriages with brown races. Job Charnock rescued a Brahman Sati, and married her; but that was an exception. Had the French or Russians conquered India, there can be little doubt that they would have intermarried with the aristocracy of the country. Akbar was conspicuous for his religious toleration, and the reforms he actually introduced would shock the Congress-wallahs of the present day. He forbade the marriage of boys under sixteen, and girls under fourteen; he permitted Hindu widows to re-marry, and prohibited Sati, except when the act was quite voluntary. The Moghul Empire attained its zenith under Shahjehan and Aurungzeb (1627-1707), and our author gives a graphic account of the Moghul Court at Delhi, the life in the great square, the Chandney Chowk, and the luxurious mansions of the grandees. The death of Aurungzeb was followed by fifty years of decline. We then have an account of European immigrations, Portuguese, Dutch, British and French.

Bengal is described as "the land of promise; the land overflowing with cottons, muslins, indigo, and sugar; the land where twenty chickens could be bought for a rupee; where geese, ducks, mutton, fish and pork could be bought for a

mere song. The climate was bad, especially for those Europeans who indulged in punch and a loose way of living; but it was a proverb amongst Europeans in the seventeenth century, that Bengal had a hundred gates open to all comers, and not one by which they could go away." The historian points out as a curious fact, that the three great capitals of British India were built on a sandy beach, a mud bank, and a pestiferous island. The intense oppression under the later Moghul viceroys paved the way for the eager acceptance of British rule by the masses of the people. But Clive's policy of non-intervention in the revenue and internal administration had to be abandoned, and in 1772, Mr. Warren Hastings was sent out to transfer the administration from Asiatic officials to the Covenanted servants of the Company. He and his successors, Lord Cornwallis and Sir John Shore, were chiefly busied in perfecting the revenue and judicial administration of the country.

Lord Wellesley brought out instructions to maintain the peace of India by a balance of power. The history of his and the succeeding Viceroyalties is the history of the building up of the British power, which was subsequently consolidated by Lord William Bentinck, Lord Auckland, Lord Ellenborough, Lord Hardinge, Lord Dalhousie and Lord Canning. A clear and succinct account is given of each of these Viceroyalties. The last four chapters of the history cover the period from the Mutiny up to 1888, and is an unbroken record of progress and the advance of civilisation. In the concluding chapter of the book, an account is given of the Asiatic States, and the historian shows that they are all remnants of three extinct Asiatic Empires, the Rajput Empire, the Mahomedan Empire of the Moghul, and the Maharatta Empire. The concluding sentences of the book are apparently intended as a warning against the methods of the Congress and the license of the Native Press: "Day by day the destinies of India are being bound up closer and closer with those of the British Nation. Both have been welded into one commonwealth, and those whom God hath joined together, let no man attempt to put asunder by evil speech, evil thoughts, or evil ways"

It can certainly be said of Mr. Talboys Wheeler that he has the rare faculty of clothing with life the dry bones of history. This little history is fresh, graphic, picturesque and interesting throughout; and that is more than can be said of the chaotic mass of facts in such a history as Elphinstone's. India has little history in the sense that European countries have: she has no constitutional history, and there is little to attract the European student. Mr Wheeler can claim to have made Indian history attractive, and his success is probably due to his close and faithful study of the two great fathers of



history, Herodotus and Thucydides, each unrivalled in his own line, but, diverse as the poles in their principal traits and characteristics. Mr. Wheeler combines the picturesque narrative of Herodotus with the stern and earnest solidity and accuracy of Thucydides. We believe his book is used in all schools and colleges in India; if it is not, it certainly should be. We wonder that no translations of the book have been made into Bengali, Urdu and other vernaculars. Such translations would advantageously supplant a number of worthless vernacular histories.

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*Fourth Annual Report of the National Association for supplying Female Medical Aid to the Women of India: January 1889. Calcutta: Printed by the Superintendent of Government Printing, India.*

THIS is a record of good solid work. As a frontispiece, there is an excellent portrait of the Countess of Dufferin. It is mentioned in the report (which is written by the Honorary Secretary, Mr. W. R. Lawrence, C. S.) that Munshi Newal Kishore, C. I. E., of Lucknow, has published at his own cost Hindi and Urdu translations of the "Record of three years' work" written by the Marchioness of Dufferin and Ava. Loyal native gentlemen should publish translations in other vernaculars. The report gracefully acknowledges the labours of the Branch Associations and their Honorary Secretaries.

Foremost among the objects of the Association at present is Female Medical aid, and excellent progress has been made in this direction. Already the Central Committee is in a position to offer well-paid appointments in at least a dozen places in India. Of hardly less importance is the establishment of boarding-houses. Calcutta already possesses a good one, thanks to the splendid liberality of the Maharani Surnomoyh. In Bengal there are now 27 lady students at the Calcutta Medical College, and there are fair numbers in the other Provinces. More funds are wanted for building and equipping hospitals and dispensaries.

The receipts of the Central Committee during the year amounted to £1,184-14-9 and Rs. 1,58,583-7-3. The objects of the National Association are now widely known, and the movement seems to have taken a firm hold of the people in all parts of India. Provinces are combining to one end, and close co-operation exists in the matter of medical tuition. All honour to those English ladies and gentlemen, who, with untiring efforts, are cheerfully and gratuitously helping on the great movement so nobly inaugurated by the Countess of Dufferin!

*The Captain's Daughter.* A novel. By A. C. Pqoshkin. Literally translated from the Russian for the use of students. By Stuart H. Godfrey, Bombay Staff Corps. Calcutta : Thacker, Spink & Co. 1888.

SENDING English officers to Moscow and St. Petersburg to study the Russian language is quite a recent development of the comity of nations ; a novel outcome of diplomacy, the precise object of which is not very clear to the diplomatically uneducated mind. Be it what it may, literary hunting grounds seem likely to be benefitted by the change from an old order of things to a new one. This remark, is induced by perusal of *The Captain's Daughter*. In a modest preface Captain Godfrey says, that in offering his translation to the public, he has done so with a view to assist those students who are unable to secure the guidance of a tutor, and who, as he knows by tiresome experience, are likely to experience considerable difficulty in mastering the idioms and proverbs of a people whose laws, language, manners, and customs are so widely different from those obtaining amongst English folk. "Itself a dialect of the Slavonic, Russian has, during centuries of Tartar, Mongolian, and Polish invasions, adopted many words and ideas from these peoples, so that, although much that is unintelligible to the ordinary foreigner will be clear to the oriental traveller, yet to gain a thorough insight into the characteristics of the nation, and its peculiar modes of thought and speech, it is absolutely necessary to travel in the country." This is a hard saying, and may be disheartening to some whom it professionally and specially concerns,—to men who are in spirit willing, but who can see no way of achieving the desired object, unless as peripatetic Fakirs. He warns his readers that Russian books translated first into French, and through that auxiliary medium filtered into an English version, lose in the transmigration of ideas much of their racial flavour, and much of their intrinsic character. Stay-at-home students, endued with a due regard for folk-lore veracities, should be grateful for the hint ; grateful to a translator whose main aim throughout the work now under notice has been to stick as literally as possible to his text, elucidating it when necessary by footnotes.

The reader, untroubled with anxiety about examinations in Russian and staff-corps appointments, will find *The Captain's Daughter* to be a charming, fresh, healthy story. It is full of incident and romance, alive with the actual life of rural Muscovy at the latter end of the last century. It abounds in character sketches of the men and manners, the women, fashions and simplicities, the savageries and seamy sides of a bygone time. It is a story told in that artless style

which is the perfection of art, and its verisimilitude impresses one's innate sense of the fitness of things with a belief in its fidelity to nature. The title is somewhat misleading. The Captain's daughter Máshá is, it is true, the heroine of the tale—a portrait finely drawn, delicately coloured in soft subdued tints—a girl in whom the might of tender, maiden love triumphs over the weaknesses of abject physical cowardice. But it is round the hero that the interest is concentrated and maintained. *The Captain's Daughter* is really the story of his life and adventures, his varied experiences, his faults, his follies, his good and ill fortunes; what he saw, what he thought, what he did and what he left undone, from the time when he was enrolled as a sergeant in the Semenokie Regiment till his manhood, up to the time when he married his beautiful, much-tried, ever-constant Máshá. We will leave the reader to unravel the plot.

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*The National Review*. January 1889, London, W. H. Allen & Co.  
13, Waterloo Place, S. W.

Twenty years ago Tennyson's day dream in *The Princess* of a college—

With prudes for proctors, dowagers for deans,  
And sweet girl graduates with golden hair.

was no more than a poet's dream; seemed most unlikely, from the common-sense view of the period, ever to eventuate in anything more substantial than a dream; was a sport, a scorn to the Philistines, who never can conceive of the prophetic side of a poet's genius. But the dream came true in spite of Philistian opposition, railing, ridicule, repudiations of culture, sweetness, and light. Girton and Newnham arose on the shocked middle class horizon, and could not be denied as facts and verities. Medical schools at Edinburgh and Dublin were thrown open to women. The London College became favourably inclined towards them in the matter of education; prejudice was undermined, the foundations of traditions sapped, and society smiled benignly on what it had frowned at yesterday and the day before. The constitutional claim of girls to parity of education with boys was proclaimed with all the enthusiasm of a new crusade. To faddists a new field for the employment of their energies was revealed. The school-mistress was sent abroad, and went to and fro in the land, burning to avenge the wrongs of centuries. Now there are signs and tokens that the pendulum is prone to incline back again more or less in the direction whence it was propelled years ago. Indication of this tendency may be found in the January number of the *National Review*. In its pages the Editors have significantly allowed Lady Magnus space for a spirited, womanly, and

logical protest against parasite extravagancies and irrelevancies that are strangling a once fair and well promising growth. Do the sweet girl graduates of actual class lists, she asks, never seem to lack something even more lustre-lending than golden hair?

Is the accomplished fact, upon the whole, just a degree less "sweet" to them than the desire? Such

Obstinate questionings  
Of sense and outward things

occur, at any rate, to the outsider, and it is to them, in his bewilderment, that he turns for answer. What says "sense," what say "outward things" to his new ideal of woman, the "glorified spinster" who has taken the place held, at long intervals, by "the joyful mother of children" and "the simple maiden in her flower?" She goeth forth to her labour in the morning, this wonderful product of our nineteenth century, whom statistics absolve and the new sentiment applauds, clad in waterproof as in a garment, guiltless alike of figure or full, and the "obstinate questionings" grow clamorous. Is it needful, is it admirable, this hopelessly, heedfully unattractive departure from traditional womanhood? Is it justified from the æsthetic, or the ethical, or the economic standpoint?

As to the latter, Arthur Hugh Clough is made arbiter:—

One may live without books—what is knowledge but grieving?  
One may live without hope—what is hope but deceiving?  
One may live without love—what is passion but pining?  
But where is the man that can live without dining?

Lady Magnus, less genially recognizes dining as a very essential element of the situation. If—her argument runs—

If, in all seriousness, the "higher education" could be proved to solve, in any appreciable degree, the terrible economic problem which statistics present, anent the surplus of women in these islands, then readily enough should its failure on the æsthetic, if not on the ethical, side be forgiven to it. But this, the crux of the matter, we take leave to doubt. This modern crowd of machine-made mediocrities, instructed and uneducated, which the high-school mills grind out, and on which all sorts of examinations set their value in varying hall-marks, this new type of wage earning womanhood which is ready for any kind of work at a lower rate of payment than its brothers; to be coach, clerk, or chemist; to set up type or despatch telegrams; to write novels or to write shorthand with equal facility; does this "sweet dream" fulfil itself, even from its favourite visionary basis, the strictly statistical and utilitarian? Does it, in shifting the burden, at all relieve the pressure? Does it not rather complicate the economics in its effort to adjust the weights to the weaker shoulders? No market now a days has more than a limited number of stalls, and if the girls are to take a full share at filling these, a like proportion of boys must perforce be elbowed out; or, sooner than push and be underpaid, must turn colonist and so help further to swell that perplexing surplus of single women. And the boys, too, it is to be feared, may turn out worse clerks and worse colonists, worse men all round, less home-loving, less hard-working, more self-indulgent under the new dispensation, which, relieving them from wholesome and natural responsibilities, gives them ill-clad,

independent, and "competitive" sisters, and openly preaches the gospel of "get on" in place of the older chivalry of "on guard." In very literal truth

There is no more subtle master under Heaven

To keep down the base in man . . .

Than is the maiden passion for a maid.

We must quote again. Paraphrase would be an injustice :—

\* The whole system, from start to finish, to our way of thinking, is mistaken ; from the high schools which are clothing our girls in the misfitting garments which their brothers are discarding, to those communities of women which, under the name of halls and colleges, revive many of the features of the ancient nunneries without the religious motive which went some way to redeem these. For, granted that the object of education with boys and girls is identical—namely, to make of them intelligent and capable men and women—yet, neither being mentally, morally, or physically epicene, the means employed to this end should surely differ somewhat, both in kind and in degree. Utterly regardless, however, of this very obvious consideration, something of the Procrustean process is applied to the girls ; artistic and domestic developments are lopped off, and regulation bits of science and of dead languages are pieced on, to "put her on the same level" as her brother. She goes to a "public" school like him, is taught the same lessons, which—here nature unluckily steps in and differentiates—she sets to work at with a desperately conscientious disregard of play, and presently, at the most mother-needed time of her life, and with money which might buy her trousseau and a colonial passage, is sent from the wholesome hand-made restraints of home to the machine-made, quasi-independent discipline of college. There she proceeds to "prattle of protoplasms" instead of prattling with her small brothers and sisters, to read biology instead of the Bible, and to develop, under the plea of self-culture, sundry not inconsiderable tendencies to selfishness and one-sidedness. And this same culture—is it worth the cost ? Do not

The true gods sigh for the cost and pain,

For the reed that grows nevermore again

As a reed with the reeds in the river.

One needs but to name Mary Somerville or George Eliot or Harriet Martineau, or half a hundred others among only modern instances of differently distinguished women, to demonstrate that genuine talent needs no such forcing ; and, for the rest, surely the generic male undergraduate is hardly so delightful a product, that one should hail a collegiate system whereby feminine mediocrities to match him may, perchance, be multiplied.

Lady Magnus advocates for English girls a veritable higher education, "taking root downward, and bearing fruit upward ;" service, not self-culture, its aim ; the virtuous woman, not the virtue of a zoophyte its ideal ; marriage recognized as the most demanding, most bestowing of all the professions open to women ; and homes and mothers reckoned superior to halls and principals.

We recommend all who are interested in the woman's rights question, all believers in female education, all who are desirous of the well-being of the gentler sex, to read Lady Magnus's article in the *National Review*. It is admirably written, well as essentially national and patriotic. In the same number of the *Review* may be found an article signed Andrew T.

Sibbald dealing with "Islam as a Political Power," an article by Demetrius Boulger on "The Value of the Chinese Alliance," and some other interesting contributions. The issue seems to be a particularly good one.

*An Indian Olio.* By Lieut. General E. F. Burton of the Madras Staff Corps. Author of "Reminiscences of sport in India," with Illustrations from Sketches by the author and by Miss C. G. M. Burton. London; Spencer Blackett, Milton House, 35 St. Bride Street, E. C.

THIS is a genial gossiping airing of experiences and opinions *de omnibus rebus et quibusdam aliis*; a lazy day book written simply and unaffectedly, much after the manner in which a man writes the journal intended for his own use only.

Confessedly indeed, General Burton's old journals have been largely drawn upon in the preparation of his book, which is agreeably discursive, didactic, sprinkled with good stories that have the great merit of not having appeared before in print. The author has an eye for scenery, soldierly instincts that rise above the dominion of pipeclay, his own notions about political economy, the excise system and social science, sanitation, &c., &c. He is a natural naturalist, and when sport does not interfere with the sentiment, a fervent humanitarian, a hot gospeller of goodwill and mercy to man and beast alike. As when, for instance, *apropos* of fishing for murrel and perrun at Paldee, he writes:—

Small fish and frogs are good bait for these monsters; but the very best, and one which no fish of prey can resist, is a small live mouse, tied securely—harnessed, as it were—to a set of hooks, and hove out to swim in deep water. The *twittering* motion of the mouse's feet in the water is an absolutely irresistible temptation, and no decent fish within sight of the phenomenon but will rush at it and pouch it at once, hooks and all!

By way of counterpoise to his mercy for beasts and fish, General Burton has none at all for insect pests, ants, hornets, bees, bugs, flies, &c. Slay and spare not is his counsel as regards them. The common house fly is stigmatized as the very worst of all Indian insect pests; a judgment with which on reflection we incline to agree. Beyond and above everything else, General Burton is an ardent sportsman. He rises to enthusiasm when memory takes him back to Bangalore, and a beautiful valley not far from that station which "stinks of tigers," and is referred to as a most delightful place for a week's jungle picnic in the hot weather. The General deprecates extermination of wild beasts except by the rifle of the sportsman. Is not poor Bruin an animal and a brother? It is true that "his crusty temper now and then leads him into regrettable extravagances in the

way of scalping people who intrude suddenly upon his privacy or otherwise offend him ; but he is a quiet creature in the main, and the keeping of his numbers within proper bounds might very well be left to the rifle and matchlock also, without exposing him to the outrage of having a Government reward set upon him." Neither is it reasonable, in General Burton's opinion, to subject that useful scavenger the hyena to a similar outrage on his dignity. It is true that the jackal has a tendency to rabies, that, of the deaths caused by wild animals in the North-West Provinces and Oudh in 1886, no less than seventy were set down to jackals, and this is admittedly a serious set-off against the animal's services as a scavenger. "The bad must be taken with the good in his case." The General is not a pigsticker, but is nevertheless able to spare some notes of admiration for the Tent Club, and "the noble sport of hog-hunting." He can find none to bestow upon modern horse-racing, *i. e.*, betting, bookmaking, lotteries, *pari-mutuels*, &c., "all of which are apt to form a dangerous attraction for young subalterns, and, for the matter of that, for older people also, and to end in considerable trouble, recourse to usurious money-lenders, and general loss and difficulty to those who can ill afford to risk their money on the race-course." General Burton prefers *real* sport: tiger-shooting for choice, as to proper and advisable methods of conducting which griffs will find many useful hints in *An Indian Oho*. Tiger-shooting on foot is held to be indefensible, suicidal folly. Tigers, it is said, *can* climb trees ; and no shot should ever be fired from tree or rock without moral certainty of ability to kill. When, in a shooting party, the guns available cannot command all "likely" places for breaking cover, it is a good plan to borrow some of the beaters' cotton cloths or puggrees, and to place them half hidden in bushes at such points as it may be desired that the tiger shall *not* go. An elephant which loses temper and charges whenever it sees a tiger or other fierce animal, is almost as dangerous to its rider, and quite as great a bar to successful shooting as one that turns tail and runs away. Beaters are often extremely foolhardy, especially if they have liquor on board, and any attempt at rushing on or examining bushes, &c., before the elephant comes up to do it for them, must be sternly repressed. Prone to many ailments is the elephant—fever, rheumatism, dropsy, catarrh, inflammation of the lungs, inflammation of the brain and apoplexy being the most common ones. The last-mentioned disease, occasioned usually by exposure to the sun, is almost always fatal: "No treatment is of any avail beyond keeping the elephant in the shade and applying wetted cloths to its head." Our author considers that Mahouts are, generally speaking, fairly

efficient elephant doctors. They have their own recipes and specific boluses confected of spices, opium, aloes, &c. •

General Burton served, it would seem, in many parts of India—Madras, Central India, the North-West Provinces, Burma. "Society at Madras is not lively," we are told; nor is the country round and about very interesting. But in the good old times, before railway whistles shrieked in the *Balapilly* jungle, compensations might therein be found, peafowl and jungle fowl swarming in every nullah, partridge and quail to be had for the finding; the barking call of spotted deer to be heard on every side. And when the exigencies of drill or domestic affairs stood in the way of General Burton's pursuit of big game, he did not despise such smaller fry. General Burton admires the Madras army detachments, which it will be remembered have lately been doing such good work in Burma. He joined this Army in 1840, and reports it as being then fully officered, and in a state of good discipline and efficiency. The Artillery were, in 1840, remarkably good: "I have never seen smarter work than that of the Native Horse Artillery." The Foot Artillery guns were drawn by bullocks specially bred by Government in the Mysore country for army purposes. "It was wonderful to see these animals manœuvre. They would drag their guns over the most rugged ground (so long as there was no sand) almost as well as horses. The Madras Light Cavalry were a smart and soldier-like body, "in handsome French grey uniform." Here is a glimpse at the Blue mountains:—

Towards the top of the ghaut the landscape opens, and forest clearings<sup>s</sup> thickly planted with formal rows of coffee bushes bright with coral berries, show that the hand of man is busy on the once solitary mountains. On the summits, over which roll constant clouds and mists, are large plantations clothing the hills and valleys with dark foliage, and amid pretty clumps of trees which the woodman's axe has spared, are scattered cottages, very English in appearance, with tile or zinc-covered roofs, and walls overgrown with beautiful many-coloured creepers and blushing fuchsias.

In the home-like hedgerows are masses of crimson and white roses and yellow raspberries, and in the trim gardens are flowers to which our hearts warm—daisies, pinks, wall-flowers, dahlias, geraniums, and pansies and most other flowers which grow in temperate climes.

*Apropos* of the Burmese, the following remarks strike us as worth consideration:—

The independent bearing of the Burmese, which I have already mentioned, is very apt, indeed almost certain, to run into arrogance, and, to use a vulgar word exactly fitted to them, into bumptiousness. In their diplomatic intercourse, from the days of Symes and Crawford even to the last outburst which ended in the annexation of the dominions of the golden-footed dynasty, the greatest insolence has always been displayed by the Burmese Government. All the tricks which are so well understood by Orientals were employed to cause the embassies and residents to submit, often unwittingly, to indignities, and insults, both open and covert, were heaped upon them, even in Crawford's embassy, extending to



a persistent delay in his reception until "beg-pardon day," which, as its designation shows, was the day for receiving supplicants and criminals !

General Burton admires Burmese human nature as exhibited in the female form divine, but does not lose his head over it, as some people have done. His appraisalment is thus worded :—

Burmese girls are fair to look upon. There is a certain prettiness in their doll-like faces, smooth olive complexions, and clear black eyes, which is pleasant to see. They are, however, very apt to "paint the lily," and to whitewash their necks and faces with an odious composition which gives them the appearance of ghosts at a penny theatre !

The dress and general get-up of these young people is very piquant and becoming. Wild flowers, or if procurable, roses and camellias, in their carefully dressed hair are never wanting. Their general attire is a loose white jacket of either silk or muslin, open at the neck ; a gay silk wrapper of a tender apple-green or lemon-yellow, or some other pretty colour, wrapped round the waist, and worn tight from the hips downwards ; and another silk scarf, perhaps of a pale pink, thrown across the shoulders ; their hair is dragged well off their high rounded foreheads, and drawn into a knot at the crown of the head. A large cheroot in the mouth and a lacquered paper umbrella complete the equipment of the Burmese belle.

Of a visit to Calcutta it is written :—

Letting alone the native town and outlying suburban villages, and clusters of huts called "bustees," to the frightfully unclean state of which the abnormal death-rate bears mournful testimony, the stenches (no more polite word will suffice) of Chowringhee, the European quarter *par excellence*, are inconceivable. We resided there, in one of the numerous *palatial* mansions, for a considerable time in the autumn of 1882, and the pestilential stink which prevailed for the greater part of the day, especially in the morning, was sickening ; it was not wonderful that cholera was heavily visiting the city ; the wonder was that there was not an absolute plague and pestilence for destruction of its inhabitants.

A great Indian civilian, whose energy in sanitary matters, as well as in all other duties of his high office, was beyond question, once said to me, "The people must not be *dragooned* into sanitation."

*The Indian Church Quarterly Review*. Edited by the Rev. A. Saunders Dyer, M. A. The Oxford Mission Press, Calcutta, 1888.

IN the *Indian Church Quarterly Review* for January there appears a reply by the Archbishop of Smyrna to the Pope's letter to the (Uniat) Armenian Church. The Bishop of Bombay contributes a paper on the recent attacks on marriage, and the Bishop of Lahore a portrait of himself. Two Archdeacons are also amongst the contributors. Clearly, the church organ has dignities and authorities on its side. An article on the Banker Caste of Bengal, by the Rev. Lal Behari Day, will interest others besides enquirers into the labyrinth of caste systems and customs. A tribute to the memory of George Maxwell Gordon, "the pilgrim Missionary of the Punjab,"

by the Rev. T. F. Dale, is affecting as well as interesting. At first Gordon's life in India was the ordinary life of an Indian Missionary, divided between pastoral work among the converts, and preaching tours in the villages; but before long he felt the necessity of entering more into the lives of the people, by making the outward circumstances of his life resemble theirs." With that end in view, deliberately, and not as the result of any sudden impulse, he took upon him, and throughout his after career, lived the life of a Christian Fakir. One by one he gave up the various so-called necessities of the English Missionary—the house, the tent, the servants, English clothing, &c. "He lived on native food, and by degrees obtained a complete separation from, and independence of, the luxuries of Anglo-Indian life. To this he was slowly led by his love for souls, and the guidance of his Master." Loving souls as he did, conforming to native ways of life in order to win them, his sincere affection for the people never blinded him to their defects. He was never misled by the charm of manner, or the politeness of natives to imagine himself or his countrymen more beloved than they are. His character presented a rare combination of common sense and enthusiasm. We find him saying:—

In this warfare one has constantly to remind oneself that the weapon of our Master's ordnance are not carnal, and that we do indeed wrestle, not with flesh and blood, but with principalities and powers, with the rulers of the darkness of this world, with spiritual wickedness in high places. As I walk through the bazars, I mourn over the wideness of the mark which separates us from this people, or rather which separates them from the Gospel, for one would be quite content to be hated by them if only the Gospel were loved. I can never convince myself that the people, as a people, have the smallest affection for us, or ever will have, but I believe that they are fully capable of being animated, not by self-interest, but by the love of Christ.\*

Towards the end of this sketch of his friend's character and work, starting with the question—What were the results of his work? Mr. Dale is impelled to the larger question, What are the successes of Missionary work?

The rest of the paper is more or less of a protest against Canon Isaac Taylor's recent contributions to the *Fortnightly Review*—"The Great Missionary failure." It is noteworthy that, in Mr. Dale's opinion, the day of Missionary Societies is passing away, and the time drawing nigh when the Church of England will no longer need to carry on her Mission work through the agency of private enterprise. In the not-far-off future, the work of Missions will have to be controlled and managed by the Church itself, directly, and no longer as an

*imperium in imperio*, fettered and hampered by lay interferences :—

There can be no doubt that the present method of managing Missions by irresponsible Committees has had its day, and the failure of its financial management will probably hasten its fall. Every thoughtful man who has had any experience of affairs, must see that no Committee, however excellent, no body of secretaries, however able, can possibly be competent to manage the affairs, and control the destinies of the future Church of India. They can, and perhaps sometimes do hamper the more able and independent missionaries. They certainly in some cases unduly limit the choice of workers by exacting tests not required by the Church they profess to serve. To exact such tests is scarcely loyal, to submit to them not altogether wholesome for the missionaries themselves. Granted that a man has the education and character necessary, the call to mission work is test enough, and its reality will soon be tested by the poverty, hardships, and tedium of a missionary's life.

The extension of the field of choice would enable a controlling body to withdraw from the work, from time to time, men who although fitted to do good work elsewhere, are not suited by temperament or constitution for work in India. Our present system is such as no other Church would now adopt. The success for example of the American Presbyterian Missions is due to the good sense of their management and the unity of their views, as well as to their zeal and energy.

The Archdeacon of Calcutta is the author of the *Indian Church Quarterly's* counterblast to Canon Taylor's *Fortnightly Review* censure on Christian Missions; and the Archdeacon deals with his adversary vigorously and shrewdly. Canon Taylor's main contention is, that the number of converts made by missionaries is extremely small, and that at the present rate of progress the conversion of the world will occupy a period of time which may be reckoned by hundreds of thousands of years, while the expenditure incurred on Missionary work is altogether out of reason as compared with results.

The argument put forward in support of these propositions is by the Archdeacon likened to an argument by rules of three. Thus, Canon Taylor, postulating that the number of Indian converts made by the Church Missionary Society in 1887 was 2,586, proceeds to show by a rule-of-three sum, that it will take the Society just one hundred thousand years to convert India.

The sum is thus disposed of by the critic :—

Now there is a beautiful simplicity about this method of settling a very difficult question, which at first sight has an undoubtedly attractive look, and so he applies it several times with equally discouraging results to the hopes of those interested in Missionary work. He seems, however, quite to forget that a principle of this kind, though at first sight it may look very simple and conclusive, is apt to break down and exhibit very plainly its fallacy, when tested by an extended application. Let us try this in the present case, and then leave Canon Taylor to say whether he is satisfied with, and ready to accept the result. Our Blessed Lord's ministry, put at its very shortest period, extended over three years, and yet immediately after his Ascension, when the number of the names was taken, they were found to amount to no more than one hundred and twenty. But at the

present time there are certainly at least 350,000,000 Christians in the world. Now, if we apply the rule-of-three argument here, we shall discover that, if only one hundred and twenty persons were converted in three years, it must have taken upwards of twenty-nine millions of years to produce the present number of Christians. We must ask our readers' pardon for this peculiar illustration; but it runs on all fours with Canon Taylor's calculation of the time it will take the C.M.S. to convert India, and both illustrations seem to us of about equal value.

The rule-of-three principle is puerile and has not even the merit of novelty to recommend it.

The indignant Archeacon finds it difficult to acquit the outspoken Canon of dishonesty, except at the expense of his intellectual powers: "or is it that his prejudices have so blinded him, that he thinks any stick that comes to hand good enough wherewith to belabour Missions? However, since Canon Taylor has chosen to raise a rule-of-three phantom, and striven to conjure with it, his critic will even consent to meet the phantom-raiser on his own ground, and to exorcise his ghost with statistics evolved neither out of rule-of-three or rule-of-thumb, but from no less an authority than a Government Blue Book. To the Government Report of the last census of India taken in 1881, the assailant of Indian Missions is referred to for striking, officially-warranted testimony to the progress of Christianity in that largest, most populous, and most intelligent Province of India, Bengal. The Native Christians, it says, "are the most rapidly progressing class in Bengal. It has been shewn that they have increased, chiefly by conversion, at the rate of 64·07 per cent. during the nine years which have elapsed since the census of 1872."\* "The progress made in the spread of Christianity during the last nine years is one of the most interesting facts brought out by the census just taken. . . . "In point of fact the proportionate increase in the number of Christians has been much greater than that of the followers of any other religion."† "It is certain that, for obvious reasons, the Christian community, both at the former and the recent census, were more accurately enumerated than any other section of the people: so that whatever increase or decrease is shown in their numbers may be accepted as having really occurred."‡ This is very strong testimony to the increase of Christianity, and coming from a source which even Canon Taylor can hardly gainsay, scarcely supports his theory of the great Missionary failure. Still following the same authority, we learn that while the increase in the Native Christian community during the nine years ending in February 1881 was 64·07 per cent., as we have

\* Bengal Census Report. vol: i. p. 84.

† Bengal Census Report, vol: i. p. 82.

‡ Bengal Census Report. vol: i. p. 83.

mentioned above, the increase of the general population was only 10·89. It is very evident, therefore, that if the argument by rule-of-three is of any value at all, it may be applied here, and for Canon Taylor's satisfaction we will apply it.

An increase of 64·07 per cent. in nine years means an increase of 100 per cent. in just fourteen years; or in other words the Native Christians, at the present rate of increase, are doubling themselves every fourteen years. Now, from the same census report, we find that there were at beginning of 1881, 86,306 Native Christians in Bengal. Doubling themselves every fourteen years, they would amount to no less than 88 millions in 140 years, or more than 18 millions in excess of the present population of Bengal. We may therefore anticipate that, if there is any virtue in calculations of this kind, Bengal will be converted to Christianity in about one hundred and forty years, and if Bengal is thus converted, the rest of India will not be very far behind. This is somewhat different from the hundred thousand years which Canon Taylor calculates that it will take to convert India.

Again, the province of Bengal, it is contended, by no means stands alone in this rapid increase of Native Christians. Almost every Indian Mission shows a rapidly increasing rate of progress. For the whole of India, between 1851 and 1861, the rate of increase was about 53 per cent. During the next decade it was 61 per cent, while from 1872 to 1881 the increase for the whole of India was 86 per cent, showing therefore a larger rate of increase for the whole of India than for Bengal alone.

Then comes the question of expense: Canon Taylor's conclusion that since 715 agents of the Church Missionary Society spent £34,186-2-6 in converting 173 Indians, each convert cost the Society £197-12-1½ is denounced as "simply absurd." "If," it is written, "the worthy Canon had any practical acquaintance with Missionary work in India, he would never, we think, have put forth an argument so ridiculous. Missionary labour in India, and in every other country too, is essentially an educational work, and any one who has ever visited a Mission station would grasp this fact at a glance. And so it comes to pass that every such station in India is a centre of instruction in things moral, intellectual and social. For every seed which brings forth an actual convert, a thousand, nay ten thousand are sown. They may not spring up and bear fruit for many a year, but since it is God alone who giveth the increase, we are well content to wait His time, confident that so long as the worker is honestly doing his best, the seed sown will bear fruit though it be after many days."

What follows commends itself even more to our sympathy:

we mean the passage where the Archdeacon takes opportunity to protest most strongly against the idea that the souls of men can be weighed against gold and silver. This is, in fact, the position that Canon Taylor takes up. It is not worth while to convert a Hindu if the process is costly. If it can be done for £10, or perhaps even £20, you are justified in attempting it; but when the sum runs up into hundreds, then it becomes a criminal waste of money. Such is in reality the doctrine we are asked to accept, and we have no hesitation in saying, that an argument more thoroughly unworthy of a professing Christian we cannot conceive.

The Archdeacon contends that the use of such an argument by a Christian priest, betrays a low moral standard, just as the argument from rule-of-three betrays an inferior intellectual one.

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*Light and Shade.* By Herbert Sherring. Calcutta: Thacker, Spink & Co. 1889.

MR. Sherring has the gift of humour. If it seems inordinately prolonged sometimes, after the fashion of *Mark Twain's*, the so-called wit of that sort is probably to blame. This collection of agreeably-told little stories—most of them *apropos* of Anglo-Indian life and its conditions—has been reprinted from the columns of the *Pioneer* and the *Bombay Gazette*, is very readable, and may possibly help to point a moral or two to people on the look-out for inopportune portents of that sort.

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#### VERNACULAR LITERATURE.

*Rádhámati: An original tale.* Published by Sáradá Prosád Mukhopádhyaaya; Herald Printing Works; Calcutta.

THIS is a plain story written in a plain style. The characters and incidents delineated are commonplace, and the colouring is appropriately simple and natural. The fortunes of a Hindu girl, tenderly nurtured in her village home and respectably married in town, but tempted and deserted by a faithless lover, form the staple of the book.

*Rádhámati*, the heroine of the story, is the daughter of a country gentleman in impoverished circumstances. In these days of excessive marriage expenses, he finds it hard to marry his daughter suitably. A generous friend and neighbour comes to his assistance, and finds an eligible youth in Calcutta, who has successfully passed his Entrance Examination. The demands of the youth's family are considered and met; and

the youth and maiden are united in wedlock. The scene changes from country to town, where the youthful bride is transported in order that she may learn, under the discipline of her new home, the household duties of a Hindu wife. The heroine, who was the only and pet child of her parents, rebelled against whatever tended to check her wayward disposition. She is therefore sent back to her father as a bad bargain, where she loses, within a short time of her arrival, the care and protection of her mother. She grows up to be a woman, and comes in constant contact with the young men in the family of her father's friend. This unrestricted intimacy leads to mischief. The poor girl is seduced and led astray by one of the young men, and is at last deserted by him. After varied fortunes, she turns up at Benares, where she is reduced to the necessity of carrying water from the river, in order to earn a livelihood. While thus engaged in her toilsome work, she accidentally meets her husband who was passing in a boat along the *ghât* where she had gone to draw water. A reconciliation takes place, and the husband offers to take her home. This unexpected kindness so overpowers her, that she falls down in a swoon and gives up the ghost.

In telling the story, the writer seems to be terribly in earnest, as if he is making a confession in a witness-box. We seek in vain in these pages, for sparkle of fancy or novelty of situation. All is sober statement of facts, seasoned with homely moral reflections.

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*Vijnāna-Babu ; a farce.* By Surendra Nath Banerjea ; Calcutta ; Valmiki Press ; 1294 B. S.

THE aim of the writer of this farce would seem to be to hold up to ridicule the oddities and eccentricities of the "Scientific Babu ;" quite a novel theme, we should think, but marred in the treatment, which is characterized by extravagance and unnaturalness. The "Scientific Babu," rejoicing in the name of Makhun Lal, is the son of a well-to-do and orthodox Hindu gentleman. Makhun's father is anxious that his son should have the benefit of a thorough English education, the material advantages of which he could touch and handle. He is accordingly sent up to the University, where he elects the Scientific Course of study, now cultivated with so much zeal in our colleges. He graduates and takes his degree of Master of Arts "in Science ;" but not satisfied with the hum-drum course of the class lectures, he resolves to infuse the practical spirit into scientific teaching, and to illustrate the experiments in his own person. Accordingly, he carries

an iron rod, something, we suppose, in the shape of a policeman's bâton, "fastened to his left arm, as a protection against lightning." Though his eyes were good, he would still use a pair of spectacles to assist his natural vision "in discovering the hidden things of nature." He burned with a desire to impart to his aged parents some knowledge of Physical Science, "as a means of their salvation." His talk was a mass of scientific jargon. He had a friend, an editor of a vernacular newspaper, who had an "educated" wife. Makhun makes love to her, on the principle, that "kindred spirits will always commingle." With the sanction of Professor Voxley of America, he contrives to marry her. The marriage is called a "scientific marriage," in which "electricity plays the part of *Bramha*, the electric wire represents the *holy thread* or *patta*, and the electric battery, the spinning-jenny or *mâkû*, a necessary adjunct of the Hindu marriage paraphernalia. The poor complaisant husband is ruined. The "scientific Babu's" outrageous conduct is justly resented by his father who turns him out of his house.

We confess the writer has succeeded to take a rise out of our embryo scientists. But he should have confined himself to affording amusement, and let alone the ungracious task of vilification. How on earth can science be held responsible for the moral turpitude of its votaries, and why should it be credited with the blame which justly attaches to the latter. The book also furnishes a sample of the curious dialect made up of English and Bengali phrases, used by the *alumni* of our colleges. The "Scientific Babu" thinks in English, and his thoughts struggle for expression in the highly complex phraseology of Huxley and Tyndal engrafted on his mother tongue.

### ACKNOWLEDGMENTS.

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